

**LEGISLATIVE
ENACTMENTS**
(Consolidated 1980)
Volume -1
(A-C)

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CHAPTER 24

AFFIDAVITS

Act No. 23 of 1953. AN ACT TO ENABLE AFFIDAVITS REQUIRED FOR ANY PURPOSE WHATSOEVER TO BE IN THE SInHALA OR TAMIL LANGUAGE.

[25thApril, 1953.]

Short title. **1.** This Act may be cited as the Affidavits Act.

(2) Where an affidavit in the Sinhala or Tamil language is to be used in such legal proceedings as are in the English language, it shall be accompanied by a translation thereof in the English language made and signed by an interpreter of the Supreme Court, the Court of Appeal or the High Court, or by a Government sworn translator, or by a sworn translator or interpreter of some District Court, Family Court, Magistrate's Court or Primary Court.

Affidavits may be in the Sinhala or Tamil or English language. **2. (1)** Notwithstanding anything to the contrary in any other written law, an affidavit required for any purpose whatsoever may be written, and sworn or affirmed, in the Sinhala or Tamil or English language.

CHAPTER 104

ARBITRATION

Ordinances Nos.15of1866, 2 of 1889.

AN ORDINANCE RELATING TO ARBITRATION AND AWARDS, AND TO PROVIDE FOR SUMMARY REFERENCE TO COURTS.

[12th December, 1866.]

Short title-

1. This Ordinance may be cited as the Arbitration Ordinance.

5. If at the time of making reference, or at any time thereafter, it shall appear to the court, on a report to that effect made by the arbitrators, that the allowance or disallowance of any particular item in such account depends upon a question of law fit to be decided by the court, it shall be lawful for such court to try and determine such question, and the finding of the court thereupon shall be taken and acted upon by the arbitrators as conclusive.

Court may determine any question of law upon which allowance of any item of account may depend.

PART I

REFERENCE To ARBITRATION

All civil matters may be referred to arbitration.

2. All matters in dispute between parties, which may form the subject of civil action, and not that of an indictment or criminal proceeding, may be submitted to arbitration.

Arbitration may be compulsory or voluntary.

3. A submission to arbitration may be compulsory by order of court, or voluntary by the consent of parties.

6. In every case where reference shall be made to arbitration by the order of court as aforesaid, the court shall, in addition to the general power to remit conferred upon it by section 15, have power from time to time to remit the matters referred, or any of them, for the reconsideration and redetermination of the said arbitrators or umpire upon such terms as to costs and otherwise as to the court may seem proper.

Power to send back to arbitrators

PART II

COMPULSORY REFERENCE

Power of court to direct arbitration.

4. If at any time after the institution of an action it shall appear to the satisfaction of the court that it relates wholly or in part to matters of mere account of an intricate and complicated character, which cannot conveniently be tried in the ordinary way, it shall be lawful for such court to order that such matters, either wholly or in part, be referred to one or more arbitrators to be nominated by the parties, or if they cannot agree or refuse to nominate them, by the court itself upon such terms as to the cost? and otherwise as such court shall think reasonable. The award of the arbitrators or of the umpire shall be reported to the court, and shall, subject to the provisions hereinafter contained, be treated as if it were a finding of the court on the particular matter referred to arbitration.

7. Whenever the parties to any deed or instrument in writing to be hereafter made or executed, or any of them, shall agree that any existing or future differences between them shall be referred to arbitration, and any one or more of the said parties, or any person claiming through or under them, shall nevertheless commence any action against the other party, or against any person claiming through or under them, in respect of the matters so agreed to be referred, it shall be lawful for the court in which the action is brought, on application by the defendants, or any of them, upon being satisfied that no sufficient reason exists why such matters cannot be referred to arbitration according to such agreement as aforesaid, and that the defendants or any of them were, at the time of the bringing of

If action commenced by one party after all have agreed to arbitration, court may stay proceedings.

such action, and still are, ready and willing to join and concur in all acts necessary and proper for causing such matters to be decided by arbitration, to make an order staying all proceedings in such action, and compelling reference to arbitration on such terms as to costs and otherwise as to such court may seem fit:

Provided always that any such rule or order may, at any time afterwards, be discharged or varied as justice may require.

examined upon oath, it shall be lawful for the arbitrators or umpire, or any one arbitrator, and they are hereby authorized and required, to administer oaths to such witnesses, or to take their affirmation, in cases where affirmation is allowed by law instead of oath; and if, upon such oath or affirmation, any person making the same shall wilfully and corruptly give false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted and punished accordingly.

Proceedings before, and power of such arbitrator.

8. The proceedings upon any compulsory arbitration shall, unless otherwise directed hereby, or by the deed or instrument authorizing the reference, be conducted in like manner, and subject to the same rules as to the power of the arbitrator and of the court, the attendance of witnesses, the production of documents, the enforcing or setting aside the award, and otherwise, as upon a reference made by consent under a rule of court.

11. The arbitrators acting under any deed of submission or compulsory order of reference, shall make their award under their hand and (unless such document or order shall contain a different limit of time) within three months after they shall have been appointed and shall have entered on the reference, or shall have been called upon to act by a notice in writing from any party, but the court or the parties by consent in writing may enlarge the time for making the award. If no period be stated for the enlargement in such consent or such order for such enlargement, it shall be deemed to be an enlargement for one month ; and, in any case when an umpire shall have been appointed, it shall be lawful for him to enter on the reference in lieu of the arbitrators, if the latter shall have allowed their time, or their extended time, to expire without making an award, or shall have delivered to any party or to the umpire, a notice in writing stating that they cannot agree.

Award to be made in three months unless parties or court enlarge time.

PART III

PROCEEDINGS BEFORE ARBITRATORS*

Power of arbitrators appointed under order of court or in pursuance of submission which may be made on rule of court.

9. When a reference is made to arbitration by an order of court, or in pursuance of an agreement that such reference shall be made an order of court, the court shall issue the same process to the parties and witnesses whom the arbitrators or umpire may desire to have examined as the court is authorized to issue in suits tried before it; and persons not attending in consequence of such process, or making any other default, or refusing to give their testimony, or being guilty of any contempt to the arbitrators or umpire during the investigation of the suit, shall be made subject to the like disadvantages, penalties, and punishments, by order of the court, on the representation of the arbitrators or umpire, as they would incur for the same offence in suits tried before the court.

PART IV

AWARD*

12. When an award in a suit shall be made either by the arbitrators or the umpire, it shall be submitted to the court under the signature of the person by whom It may be made, together with all the proceedings, depositions, and exhibits in the suit.

Award must be signed by party making, and submitted with proceedings, depositions, and exhibits.

When arbitrators may administer oath; false oath before them made perjury.

10. When in any order of reference, or in any submission to arbitration, containing an agreement that the submission shall be made a rule or order of court, it shall be ordered or agreed that the parties and witnesses upon such references shall be

13. It shall be lawful for the arbitrators or umpire, upon any reference, by an order of court, if they shall think fit, and if it is not provided to the contrary, to state their award as to the whole or any part thereof,

Arbitrators may state their award in the form of a special case.

* So much of the provisions of this Part as regards voluntary references are repealed by Ordinance No. 2 of 1889, which is reproduced in this Edition as the Civil Procedure Code.

in the form of a special case for the opinion of the court.

(c) if an objection to the legality of the award is apparent upon the face of the award.

When court may modify or correct an award.

14. The court may, on the application of either party, modify or correct an award, where it appears that a part of the award is upon matters not referred to the arbitrators (provided that such part can be separated from the other part and does not affect the decision on the matter referred), or where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision. The court may also, on such application, make such order as it thinks just respecting the costs of the arbitration, if any question arise respecting such costs and the award contains no sufficient provision concerning them.

16. No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrators or umpire. Any application to set aside an award shall be made within ten days after the same has been submitted to the court and notified to the parties in the suit, and not thereafter.

Setting aside of awards.

17. If the court shall not see cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application shall have been made to set aside the award, or if the court shall have refused such application, the court shall proceed to pass judgment according to the award, or according to its own opinion on the special case if the award shall have been submitted to it in the form of a special case; and the judgment which shall be so given shall be carried into execution in the same manner as other decrees of the court. In every case in which judgment shall be given according to the award, the judgment shall be final, and shall not be subject to appeal. Where judgment shall be given in any case of compulsory reference, such judgment shall be subject to appeal.

Judgment upon awards.

Appeal.

When court may remit award.

15. In any of the following cases the court shall have power to remit the award or any of the matters referred to arbitration to the reconsideration of the same arbitrators or umpire, upon such terms as it may think proper, that is to say —

- (a) if the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration ;
- (b) if the award is so indefinite as to be incapable of execution;

18. If there be no cause pending in court, and the submission has not been made a rule of court, the mode of enforcing the award is by action on the bond of submission.

Proceedings on awards not made a rule of court.

CHAPTER 116

AYURVEDA

<p><i>Acts</i> Nos. 31 of 1961, 5 of 1962, 9 of 1969, <i>Law</i> No. 7 of 1977, <i>Acts</i> Nos. 6 of 1978, 16 of 1978.</p>	<p>AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A DEPARTMENT OF AYURVEDA; FOR THE REGISTRATION OF AYURVEDIC HOSPITALS, AYURVEDIC PHARMACIES, AYURVEDIC DISPENSARIES AND AYURVEDIC STORES; FOR THE ESTABLISHMENT OF AN AYURVEDIC MEDICAL COUNCIL TO REGISTER AYURVEDIC PRACTITIONERS, AYURVEDIC PHARMACISTS AND AYURVEDIC NURSES, AND DEAL WITH MATTERS RELATING TO THEIR PROFESSIONAL CONDUCT; FOR THE ESTABLISHMENT OF AN AYURVEDA EDUCATION AND HOSPITAL BOARD TO DISCHARGE CERTAIN FUNCTIONS IN RELATION TO THE AWARD OF DIPLOMAS AND CERTIFICATES, AND CERTAIN FUNCTIONS IN RELATION TO THE EDUCATION AND TRAINING IN AYURVEDA AND IN RELATION TO THE CENTRAL HOSPITAL OF AYURVEDA AND THE PHARMACY, HERBARIUM AND DISPENSARY ATTACHED THERETO; FOR THE ESTABLISHMENT OF AN AYURVEDIC RESEARCH COMMITTEE TO DISCHARGE CERTAIN FUNCTIONS IN RELATION TO RESEARCH IN AYURVEDA; TO MAKE CONSEQUENTIAL AMENDMENTS IN THE POISONS, OPIUM AND DANGEROUS DRUGS ORDINANCE, AND THE FOOD AND DRUGS ACT; AND TO MAKE PROVISION FOR MATTERS CONNECTED WITH OR INCIDENTAL TO THE AFORESAID MATTERS.</p>
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[1st October, 1962.]

Short title. **1.** This Act may be cited as the Ayurveda Act.

PART I

THE DEPARTMENT OF AYURVEDA

A Department of Ayurveda to be established. **2.** There shall be a Department of Ayurveda (hereinafter referred to as "the Department") to carry out the objects specified in section 7.

Appointment of the Commissioner for Ayurveda and other officers. **3.** (1) There shall be appointed a person to be or to act as the Commissioner for Ayurveda (hereinafter referred to as "the Commissioner") who shall be the Head of the Department.

(2) There may be appointed such number of Deputy Commissioners for Ayurveda, Assistant Commissioners for Ayurveda and other officers as may be necessary for the purpose of carrying out the objects specified in section 7.

Delegation of the Commissioner's powers and duties. **4.** The Commissioner may delegate any of his powers or duties to any Deputy Commissioner for Ayurveda or Assistant Commissioner for Ayurveda.

5. The Minister may, by Order published in the Gazette, authorize any officer of the Department to exercise or perform any power or duty of a Deputy Commissioner for Ayurveda or an Assistant Commissioner for Ayurveda.

Minister's power to authorize any officer to exercise or perform any power or duty of a Deputy Commissioner or an Assistant Commissioner for Ayurveda.

6. In the exercise and performance of his powers and duties under this Act, the Commissioner shall be subject to such general or special directions as may be issued, from time to time, by the Minister.

Commissioner to be subject to directions of Minister.

7. Subject to the availability of moneys granted from the Consolidated Fund, the Department shall be responsible for carrying out the following objects:—

Objects of the Department.

- (a) the provision of establishments and services necessary for the treatment of disease, and generally for the preservation and promotion of the health of the people according to ayurveda;

(b) the encouragement of the study of, and research in, ayurveda by the grant of scholarships and other facilities to persons employed or proposed to be employed in the Department and by the grant of financial aid and other assistance to institutions providing courses of study or engaged in research in ayurveda; and

(c) the taking, development or encouragement of measures for the investigation of disease, and for the improvement of public health, according to ayurveda.

ayurvedic dispensary or ayurvedic store, unless such premises are for the time being registered by the Commissioner as an ayurvedic hospital, ayurvedic pharmacy, ayurvedic dispensary or ayurvedic store, as the case may be, and the person carrying on such hospital, pharmacy, dispensary or store, in such premises is for the time being registered by the Commissioner as the proprietor thereof.

(2) The date appointed by Order published under subsection (1) shall be a date not earlier than three months after the date of the publication of that Order.

(3) Where any premises are used for the purpose of an ayurvedic hospital, ayurvedic pharmacy, ayurvedic dispensary or ayurvedic store, in contravention of the provisions of subsection (1), the person for the time being in charge of such hospital, pharmacy, dispensary or store, shall be guilty of an offence.

(4) Regulations may be made under this Act for or in respect of all or any of the following matters:—

PART II

POWERS OF THE COMMISSIONER

Establishment and maintenance of ayurvedic hospitals, &c., by the Commissioner.

8. In carrying out the objects specified in section 7, the Commissioner may establish and maintain, or cause to be established or maintained, ayurvedic hospitals, ayurvedic pharmacies and herbariums, ayurvedic dispensaries and ayurvedic stores.

Financial assistance by the Commissioner.

9. In carrying out the objects specified in section 7, the Commissioner may, with the prior approval of the Minister, grant any sum out of moneys voted for the purpose by Parliament—

- (a) to the Ayurvedic Medical Council;
- (b) to any institution established and maintained for the training of practitioners of ayurveda;
- (c) to any institution referred to in section 8;
- (d) to any other institution established and maintained for the promotion of ayurveda; and
- (e) to any deserving person for the prosecution of his studies in ayurveda.

Ayurvedic hospitals, pharmacies, dispensaries and stores to be registered.

10. (1) On and after such date as may be appointed in that behalf by the Minister by Order published in the Gazette, no premises shall be used for the purpose of an ayurvedic hospital, ayurvedic pharmacy,

(a) the making of applications for the registration of any premises as an ayurvedic hospital, ayurvedic pharmacy, ayurvedic dispensary or ayurvedic store;

(b) the form of such applications and the particulars to be contained therein;

(c) the fee to be charged for such registration;

(d) the period for which such registration shall be effective and the grant of certificates of renewal of such registration upon payment of the prescribed fee;

(e) the circumstances in which such registration may be refused or cancelled;

(f) the circumstances in which the renewal of such registration may be refused;

(g) appeals to the Minister against the refusal of applications for such registration or the renewal of such

- registration or against the cancellation of such registration and the finality of the decisions made by the Minister on such appeals;
- (h) the conditions which shall be complied with in relation to registered ayurvedic hospitals, pharmacies, dispensaries and stores;
- (i) the records and books which shall be kept and maintained in registered ayurvedic hospitals, pharmacies, dispensaries and stores;
- (j) the returns to-be furnished from time to time in respect of registered ayurvedic hospitals, pharmacies, dispensaries and stores, and the particulars to be contained therein, including particulars as to the number and description of cases admitted or treated and as to the staff employed therein;
- (k) the rates of fees and charges which may be charged or made at registered ayurvedic hospitals, pharmacies, dispensaries and stores;
- (l) the powers of entry into, and inspection of, registered ayurvedic hospitals, pharmacies, dispensaries and stores;
- (m) the registers to be kept and maintained by the Commissioner for the purpose of the registration of ayurvedic hospitals, pharmacies, dispensaries and stores; and
- (n) the proper maintenance and administration of registered ayurvedic hospitals, pharmacies, dispensaries and stores, and the health, safety and proper care and treatment of persons treated in such hospitals and dispensaries.
- Council", and which shall, subject to the provisions of subsection (2), consist of the following members:—
- (a) the Commissioner;
- (b) the Director of the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka; [§ 3, Law 7 of 1977.]
- (c) two members elected by the teachers of the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka, from themselves;
- (d) one member elected by the teachers of each approved ayurvedic teaching institution from themselves;
- (e) three members elected by the registered ayurvedic practitioners from themselves; and
- (f) not more than ten members appointed by the Minister of whom—
- (i) not more than three shall be so appointed from persons who are not registered ayurvedic practitioners,
- (ii) at least three shall be so appointed from a panel of ten nominated by the All Ceylon Ayurvedic Practitioners' Congress, and
- (iii) at least two shall be so appointed from registered ayurvedic practitioners who are not members of the All Ceylon Ayurvedic Practitioners' Congress.
- (2) The Minister may, without assigning any reason, remove from office, by Order published in the Gazette, any member of the Council who is appointed by him.
- (3) Any member of the Council removed from office by the Minister shall not be eligible for appointment or election as such member for a period of three years from the date of his removal.

PART III

THE AYURVEDIC MEDICAL COUNCIL

Constitution of
the Ayurvedic
Medical
Council.

11. (1) There shall be a Council which shall be called the Ayurvedic Medical Council, in this Part referred to as " the

(4) The Council may, from time to time, delegate any power, duty or function of the Council to a committee or committees consisting of members of the Council. Any such delegation may be made subject to such conditions or restrictions as the Council may deem necessary.

Term of office of members of the Council. [§ 4, Law 7 of 1977.]

12. Each member of the Council other than the Commissioner and the Director of the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka, shall, unless he vacates office earlier, hold office for a term of three years and shall be eligible for re-election or reappointment:

Provided that a person elected or appointed as a member of the Council in succession to any person who has ceased to be a member of the Council before the expiry of the term of office shall, unless he vacates office earlier, hold office for the unexpired part of the term of office of the member whom he succeeds.

Vacation of office by members of Council. [§ 5, Law 7 of 1977.]

13. (1) A member of the Council, other than the Commissioner and the Director of the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka, shall be deemed to have vacated office—

- (a) where he is not a public officer, on sending his resignation in writing to the President of the Council;
- (b) where he is not a public officer, on the absence without excuse sufficient in the opinion of the Council from three consecutive meetings of the Council;
- (c) where he is a member elected under paragraph (c) or paragraph (d) of subsection (1) of section 11, on his ceasing to hold the post or office by virtue of which he was qualified for election as a member of the Council;
- (d) where he is an appointed member, on his removal from office by the Minister;
- (e) on his ceasing to be a registered ayurvedic practitioner, or on the taking effect of an order made by

the Council under this Act suspending his registration as an ayurvedic practitioner;

- (f) on his being convicted of any offence under the Penal Code; or
- (g) on the expiry of his term. of office.

(2) The Commissioner shall be deemed to have vacated office as a member of the Council on his ceasing to hold office as Commissioner.

(3) The Director of the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka, shall be deemed to have vacated office as a member of the Council on his ceasing to hold office as the Director of the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka. [§ 5, Law 7 of 1977.]

14. Any vacancy in the Council shall be filled by the election or appointment of a member, as the case may be, in accordance with the provisions of this Part. Filling up of vacancies.

15. (1) The Commissioner shall be the President of the Council. The President and the Vice-President of the Council.

(2) The members of the Council shall elect from themselves a Vice-President of the Council.

(3) The President, and in his absence the Vice-President, of the Council shall preside at any meeting of the Council. Where neither the President nor the Vice-President of the Council is present at any meeting of the Council, the members of the Council attending that meeting shall elect from themselves a chairman for that meeting.

16. The quorum for a meeting of the Council shall be six. Quorum.

17. Subject to the provisions of section 15, section 16 and section 44, the Council may regulate its own procedure. Regulation of procedure of the Council.

The Council to be the authority responsible for the registration of ayurvedic practitioners, ayurvedic pharmacists and ayurvedic nurses and the regulation and control of their professional conduct.

18. The Council shall, in accordance with the provisions of this Act, be the authority responsible for—

- (a) recommending to the Minister whether any ayurvedic teaching institution should be approved by him for the purposes of this Act;
- (b) the registration of persons as ayurvedic practitioners;
- (c) the registration of persons as ayurvedic pharmacists;
- (d) the registration of persons as ayurvedic nurses;
- (e) the cancellation, or suspension, of such registration; and
- (f) the making of rules for—
 - (i) the regulation and control of the professional conduct of ayurvedic practitioners, ayurvedic pharmacists, and ayurvedic nurses; and
 - (ii) any of the matters referred to in paragraphs (b) to (e) of this section.

Registrar and other officers and servants of the Council.

19. (1) The Council—

- (a) shall appoint a Registrar of the Council who shall also act as Secretary of the Council; and
- (b) may appoint such other officers and servants of the Council as may be necessary for carrying out the work of the Council.

(2) The officers and servants of the Council shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by rules made by the Council under this Act.

(3) The Council may, in accordance with rules made by the Council under this Act, establish and regulate a provident fund for the benefit of its officers and servants and make contributions to such fund out of the funds of the Council.

20. (1) The members for the time being of the Council shall be a body corporate with the name of "The Ayurvedic Medical Council" and shall have perpetual succession and may sue and be sued in such name and adopt, alter and use a corporate seal which shall be judicially noticed.

(2) The Council may acquire and hold any movable or immovable property and dispose of any of its properties and enter into contracts and do all such other acts as may be necessary for the exercise of its powers and the discharge of its functions and duties.

21. (1) Such sums as may, from time to time,-

- (a) be granted for the purposes of the Council by the Commissioner under this Act, or
- (b) be paid to, or recovered by, the Council as fees under this Act,

shall form part of the funds of the Council.

(2) There shall be paid out of the funds of the Council—

- (a) the remuneration payable under section 45 to members of the Council for attendance at meetings of the Council, and to the officers and servants of the Council; and
- (b) all other expenditure incurred by the Council in the exercise of its powers and the discharge of its functions and duties under this Act.

21A. (1) The Council shall cause proper accounts to be kept of all the transactions of the Council and shall prepare an annual statement of such accounts in such form and containing such particulars as the Minister, with the concurrence of the Minister in charge of the subject of Finance, may from time to time specify.

(2) The financial year of the Council shall be the period of twelve months commencing on the first day of January.

The Council to be a body corporate

Funds of the Council.

Accounts of the Council and financial year. [§2, 9 of 1969.]

[§ 23,38 of 1971.]

Audit of the accounts of the Council
[§ 29 of 1969]

21B. (1) The Council shall have its accounts for each financial year audited by Auditor-General.

(2) For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor or auditors who shall act under his direction and control.

(3) For the purpose of meeting the expenses incurred by him in auditing the accounts of the Council, the Auditor-General shall be paid from the funds of the Council such remuneration as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance.

(4) For the purposes of this section, the expression " qualified auditor " means—

- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute; or
- (b) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute.

The Auditor-General's report
[§ 2,9 of 1969.]

21C. The Auditor-General shall examine the accounts of the Council and furnish a report—

- (a) stating whether he has or has not obtained all the information and explanations required by him;
- (b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Council; and
- (c) drawing attention to any item in the accounts which in his opinion may be of interest to Parliament in any examination of the activities and accounts of the Council.

21D. The Council shall, on receipt of the Auditor-General's report on the accounts for each financial year, transmit such report together with the income and expenditure account and the balance sheet to which the report relates, and a statement by the Council of its activities during that financial year to the Minister who shall cause copies thereof to be laid before Parliament before the end of the year next following the year to which such report and accounts relate.

Annual accounts with the auditor's report and a report of the annual activities of the Council to be transmitted to the Minister.
[§ 2, 9 of 1969.]

PART IV

THE AYURVEDA EDUCATION AND HOSPITAL BOARD

22. (1) There shall be a Board which shall be called the Ayurveda Education and Hospital Board, hereafter in this Part referred to as the " Board ", and which shall consist of—

The Ayurveda Education and Hospital Board.
[§ 7, Law 7 of 1977.]

- (a) the Commissioner;
- (b) the Director of the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka;
- (c) the Medical Superintendent of the Central Hospital of Ayurveda;
- (d) an officer of the Ministry of Higher Education appointed by the Minister on the recommendation of the Minister in charge of the subject of Higher Education;
- (e) one member appointed by the Minister from the teachers of the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka, on the recommendation of the Minister in charge of the subject of Higher Education;
- (f) two members, other than the member appointed under paragraph (e), elected by the teachers of the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka, from themselves;
- (g) one member appointed by the Minister from the teachers of approved Ayurvedic teaching institutions;

(h) two members elected by the holders of the diplomas or certificates granted or recognized by the Board of Indigenous Medicine, or by the Ayurvedic College and Hospital Board or by the Ayurveda Education and Hospital Board established under this Act and by the holders of degrees or diplomas granted by the Institute of Ayurveda of the University of Ceylon,* or by the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka, from themselves;

(i) not more than four members appointed by the Minister from the registered ayurvedic practitioners of whom not more than two shall be so appointed from a panel of six nominated by the All Ceylon Ayurvedic Practitioners' Congress; and

(j) two members appointed by the Minister from persons who are not registered ayurvedic practitioners.

(2) The Minister may, without assigning any reason, remove from office, by Order published in the Gazette, any member of the Board who is appointed by him:

Provided that no member of the Board appointed by the Minister on the recommendation of the Minister in charge of the subject of Higher Education shall be removed from office except with the concurrence of the Minister in charge of the subject of Higher Education.

(3) Any member of the Board removed from office by the Minister shall not be eligible for appointment or election as such member for a period of three years from the date of his removal.

23. Each member of the Board, other than the Commissioner, the Director of the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka, and the Medical Superintendent of the Central Hospital of Ayurveda, shall, unless he

vacates his office earlier, hold office for a term of three years and shall be eligible for re-election or reappointment:

Provided that a person elected or appointed as a member of the Board in succession to any person who has ceased to be a member of the Board before the expiry of his term of office shall, unless he vacates office earlier, hold office for the unexpired part of the term of office of the member whom he succeeds.

24. (1) A member of the Board, other than the Commissioner, the Director of the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka, and the Medical Superintendent of the Central Hospital of Ayurveda, shall be deemed to have vacated office—

(a) where he is not a public officer, on sending his resignation in writing to the Chairman of the Board ; or

(b) where he is not a public officer, on his absence without excuse sufficient in the opinion of the Board from three consecutive meetings of the Board ;

(c) where he is an elected member, on his ceasing to hold the post or office by virtue of which he was qualified for election as a member of the Board ;

(d) where he is an appointed member, on his removal from office by the Minister;

(e) where he is a member appointed under paragraph (d) of subsection (1) of section 22, on his ceasing to be an officer of the Ministry of Higher Education;

(f) where he is a member appointed under paragraph (e) or paragraph (f) or paragraph (g) of subsection (1) of section 22, on his ceasing to hold the post or office by virtue of which he was qualified for appointment under that paragraph as a member of the Board ; or

(g) on the expiry of his term of office.

* This is a reference to the University of Ceylon, established under the repealed Ceylon University Ordinance and continued as the University of Sri Lanka under the repealed University of Ceylon Act, No. 1 of 1972.

Term of office of the members of the Board. [§ 8, Law 7 of 1977.]

Vacation of office by members of the Board.

(2) The Commissioner shall be deemed to have vacated the office of a member of the Board on his ceasing to hold the office of Commissioner.

qualifying for the award of the diplomas and certificates of the University;

[§9, Law 7 of 1977.]

(3) The Director of the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka, shall be deemed to have vacated office as a member of the Board on his ceasing to hold the office of the Director of the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka.

(b) to determine and hold examinations to enable persons to obtain diplomas or certificates of the Board and to make such rules as are necessary for that purpose;

(c) to conduct or to arrange to conduct courses, lectures and classes to enable persons to obtain diplomas or certificates of the Board ;

(4) The Medical Superintendent of the Central Hospital of Ayurveda shall be deemed to have vacated office as a member of the Board on his ceasing to hold the office of Medical Superintendent of the Central Hospital of Ayurveda.

(d) to appoint examiners for the examinations held by the Board;

(e) to make recommendations to the Minister as to the fees to be paid to such examiners;

Filling up of vacancies.

25. Any vacancy in the Board shall be filled by the election or appointment of a member, as the case may be, in accordance with the provisions of this Part.

(f) to grant diplomas or other academic distinctions *honoris causa* ;

Chairman of the Board.

26. (I) The Commissioner shall be" the Chairman of the Board.

(g) to make recommendations to the Minister as to the administration of the Central Hospital of Ayurveda and other hospitals of the Department, and in particular, as to the charges to be made in respect of patients admitted to those hospitals;

(2) The Chairman of the Board shall preside at any meeting of the Board. In the absence of the Chairman from any meeting of the Board, the members of the Board attending that meeting shall elect from themselves a chairman for that meeting.

(h) to make rules for the exercise, discharge and performance of the powers, functions and duties of the Board; and

Quorum.

27. The quorum for a meeting of the Board shall be six.

(i) to do all such acts as may be necessary for the exercise, discharge and performance of the aforesaid powers, functions and duties.

Regulation of proceedings of the Board.

28. Subject to the provisions of section 26, section 27 and section 44, the Board shall regulate its own procedure.

Delegation of powers, functions or duties of the Board to committees.

29. The Board may, from time to time, delegate any power, function or duty of the Board to a committee or committees consisting of members of the Board. Any such delegation may be made subject to such conditions or restrictions as the Board may deem necessary.

31. There shall be appointed a Registrar of the Board who shall also act as the Secretary of the Board. Registrar of the Board [§11, Law 7 of 1977.]

Powers of the Board. [§10, Law 7 of 1977.]

30. The Board shall have the following powers;—

32. The remuneration payable under section 45 to members of the Board for attendance at meetings of the Board, and all other expenditure incurred by the Board in the exercise of its powers and the discharge of its functions and duties under this Act, shall be paid out of the moneys voted for the purpose by Parliament. Expenditure of the Board.

(o) to arrange with the University of Colombo, Sri Lanka, the terms and conditions to be fulfilled for

PART V

THE AYURVEDIC RESEARCH COMMITTEE

Constitution of the Ayurvedic Research Committee. [§12, Law 7 of 1977.]

33. (1) There shall be a Committee which shall be called the Ayurvedic Research Committee, hereafter in this Part referred to as " the Committee ", and which shall consist of the Commissioner, and nine other members appointed by the Minister of whom one shall be from the teaching staff of the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka, and another shall be from the regular medical staff of the Central Hospital of Ayurveda,

(2) The Minister may, without assigning any reason, remove from office, by Order published in the Gazette, any member of the Committee who is appointed by him.

Tenure of office of members of the Committee.

34. Each member of the Committee, other than the Commissioner, shall, unless he vacates his office earlier, hold office for a term of three years and shall be eligible for reappointment:

Provided that a person appointed as a member of the Committee in succession to any person who has ceased to be a member of the Committee before the expiry of his term of office shall, unless he vacates office earlier, hold office for the unexpired part of the term of office of the member whom he succeeds.

Vacation of office by members of the Committee.

35. (1) A member of the Committee, other than the Commissioner, shall be deemed to have vacated office—

- (a) where he is not a public officer, on sending his resignation in writing to the Minister;
- (b) where he is not a public officer, on his absence without excuse sufficient in the opinion of the Committee from three consecutive meetings of the Committee;
- (c) on his removal from office by the Minister; or
- (d) on the expiry of his term of office.

(2) The Commissioner shall be deemed to have vacated the office of a member of

the Committee on his ceasing to hold the office of Commissioner.

36. Any vacancy in the Committee shall be filled by the appointment of a member in accordance with the provisions of this Part. Filling up of vacancies.

37. (1) The Commissioner shall be the Chairman of the Committee. Chairman of Committee.

(2) The Chairman of the Committee shall preside at any meeting of the Committee. In the absence of the Chairman from any meeting of the Committee, the members of the Committee attending that meeting shall elect from themselves a chairman for that meeting.

38. The quorum for a meeting of the Committee shall be three. Quorum.

39. Subject to the provisions of section 37, section 38 and section 44, the Committee shall regulate its own procedure. Regulation of proceedings of the Committee.

40. The remuneration payable under section 45 to members of the Committee for attendance at meetings of the Committee, and all other expenditure incurred by the Committee in the exercise of its powers and the discharge of its functions and duties under this Act, shall be paid out of such moneys as may be voted for the purpose by Parliament. Expenditure of the Committee.

41. (1) It shall be the duty of the Committee to advise the Minister as to the carrying out of research in all branches of ayurveda with a view to the promotion of its development, and, in particular, as to the carrying out of research in respect of the following matters:— Duties of the Committee.

- (a) ayurvedic literature;
- (b) fundamentals in ayurvedic doctrine;
- (c) ayurvedic clinical treatment; and
- (d) ayurvedic drugs, pharmacology and pharmacopoeia.

(2) It shall be the duty of the Committee to carry out all such directions as may be issued to the Committee by the Minister in respect of the following matters:—

- (a) the maintenance of libraries, museums, herbariums, laboratories, or other institutions;
- (b) the publication of ayurvedic manuscripts, ayurvedic text-books and other ayurvedic journals or papers;
- (c) the compilation and publication of an ayurvedic pharmacopoeia;
- (d) the standardization of ayurvedic drugs;
- (e) all such other matters as may be necessary for the performance of the duties specified in subsection (1).

(4) No act or proceeding of a Body shall be invalidated by reason only of any vacancy in the Body.

45. The members of a Body shall be paid such remuneration for attendance at meetings of the Body as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance. Remuneration for attendance at a meeting of a Body.

46. No suit or prosecution shall lie— Protection for action taken under this Act or on the direction of a Body.
- (a) against a Body for any act which in good faith is done or purports to be done by the Body under this Act; and
 - (b) against any member, officer, servant or agent of the Body for any act which in good faith is done or purports to be done by him under this Act or on the direction of the Body-

PART VI

SPECIAL PROVISIONS APPLICABLE TO BODIES ESTABLISHED UNDER THIS ACT

Definition of the expression " Body " for the purposes of this Part.

42. In this Part, unless the context otherwise requires, the expression " Body " means any Council, Board, or Committee, established under this Act.

47. No writ against person or property shall be issued against a member of a Body in any action brought against the Body. No writ to issue against person or property of a member of a Body.

A Body to be subject to general and special directions of the Minister.

43. A Body shall, in the exercise of its powers and the discharge of its functions and duties under this Act, be subject to such general or special directions as may be issued, from time to time, by the Minister.

48. A Body shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly. A Body deemed to be a scheduled institution within the meaning of the Bribery Act.

Proceedings of any Body.

44. (1) Every question which comes up for consideration before a Body shall be dealt with at a meeting of the Body and shall be determined by the majority of the members of the Body present and voting.

49. (1) A Body may make rules in respect of all or any of the following matters;— Power of a body to make rules.

(2) In the event of an equality of votes on any question considered at a meeting of a Body, the Chairman of that meeting shall have a casting vote in addition to his original vote.

- (a) the matters in respect of which the Body is required or authorized to make rules under any other provision of this Act;
- (b) the meetings of the Body and the procedure to be followed at such meetings; and
- (c) any other matter connected with the affairs of the Body.

(3) All acts done at any meeting of a Body shall, notwithstanding that it be afterwards discovered that there was some defect in the election or appointment of any member thereof or that any such member was disqualified, be as valid as if every such member had been duly elected or appointed and was qualified to be such member.

(2) No rule made by a Body under this Act shall have effect until it is approved by the Minister and published in the Gazette.

(3) The Minister shall not, without the prior concurrence of the Minister in charge of the subject of Finance, approve any rule made by the Ayurvedic Medical Council in respect of any matter referred to in subsection (2) or subsection (3) of section 19,

in writing to the Council through the Registrar in such form as may be prescribed by rules made by the Council under this Act.

(2) An application for registration as an ayurvedic practitioner in the general register shall not be refused by the Council except—

PART VII

REGISTRATION OF AYURVEDIC PRACTITIONERS, PHARMACISTS AND NURSES

Definition of certain expressions for the purposes of this Part.

50. In this Part-

- (a) "the Council" means the Ayurvedic Medical Council; and
- (b) " the Registrar " means the Registrar of the Council.

Registers.

51. (1) The Council shall keep and maintain—

- (a) a general register and a special register for the registration of ayurvedic practitioners;
- (b) a register for the registration of ayurvedic pharmacists; and
- (c) a register for the registration of ayurvedic nurses.

(2) The Registrar shall be the officer of the Council responsible for keeping and maintaining the registers referred to in subsection (1).

(3) With effect from the appointed date, the property in the general register and the special register of practitioners of indigenous medicine maintained by the Board of Indigenous Medicine shall vest in the Council, and such general register shall be deemed to be a general register of ayurvedic practitioners maintained by the Council under this Act, and such special register shall be deemed, to be a special register of ayurvedic practitioners maintained by the Council under this Act.

Applications for registration as ayurvedic practitioners.

52. (1) Every application for registration as an ayurvedic practitioner in the general register or the special register shall be made

(a) on the ground that the applicant is not entitled to such registration under subsection (1) of section 55, or

(b) on any ground specified in subsection (1) of section 57.

(3) An application for a registration as an ayurvedic practitioner in the special register shall not be refused by the Council except—

(a) on the ground that the applicant is not entitled to such registration under subsection (2) of section 55, or

(b) on any ground specified in subsection (1) of section 57.

(4) An application may be made for registration as an ayurvedic practitioner in both the general register and the special register.

53. (1) Every application for registration as an ayurvedic pharmacist or ayurvedic nurse shall be made in writing to the Council through the Registrar in such form as may be prescribed by rules made by the Council under this Act.

Applications for registration as ayurvedic pharmacists and ayurvedic nurses.

(2) An application for registration as an ayurvedic pharmacist or ayurvedic nurse shall not be refused by the Council except—

(a) on the ground that the applicant is not entitled to such registration under section 56, or

(b) on any ground specified in subsection (1) of section 57.

54. An application for registration as an ayurvedic practitioner or ayurvedic pharmacist may be made by any person whose registration as such practitioner or pharmacist, as the case may be, has been previously cancelled by the Council, and the

Applications for registration by persons whose registration has been previously cancelled.

Council may entertain such application and dispose of it in accordance with the provisions of this Part.

Qualifications for registration as an ayurvedic practitioner.

55. (1) No person shall be entitled to be registered in the general register as an ayurvedic practitioner unless he—

- (a) is a citizen of Sri Lanka; and
- (b) is the holder of a diploma granted by the Board of Indigenous Medicine, or a certificate issued on or before the appointed date, by the Ayurvedic Medical Council under the Ayurvedic Medical Council Ordinance; or

[§ 13, Law 7 of 1977.]

- (c) is the holder of a diploma granted by the Ayurvedic College and Hospital Board, or the holder of a diploma or certificate granted by the Ayurveda Education and Hospital Board established under this Act, or the holder of a degree or diploma granted by the Institute of Ayurveda of the University of Ceylon,* or the holder of a degree or diploma granted by the Institute of Indigenous Medicine of the University of Colombo, Sri Lanka; or

- (d) is the holder of a diploma granted by any other institution in Sri Lanka or India which has been declared to be an approved institution for the purposes of this section by the Minister by Order published in the Gazette; or

- (e) satisfies the Council that he possesses sufficient knowledge, experience and skill for the efficient practice of ayurveda.

(2) No person shall be entitled to be registered in the special register as an ayurvedic practitioner unless he—

- (a) is a citizen of Sri Lanka; and
- (b) satisfies the Council that he possesses a special knowledge and sufficient experience and skill in any particular branch of ayurveda:

Provided, however, that from such date as may be appointed by the Minister no person shall be entitled to be registered in the special register unless, in addition to satisfying the requirements of paragraph (a) and paragraph (b), he is registered in the general register as an ayurvedic practitioner.

56. No person shall be entitled to be registered as an ayurvedic pharmacist or ayurvedic nurse unless he—

- (a) is a citizen of Sri Lanka; and
- (b) satisfies the Council that he possesses sufficient knowledge, experience and skill for the efficient practice of ayurvedic pharmacy or ayurvedic nursing, as the case may be.

Qualifications for registration as an ayurvedic pharmacist or ayurvedic nurse.

57. (1) The Council may, by order, refuse the application of any person for registration as an ayurvedic practitioner, ayurvedic pharmacist, ayurvedic nurse, or cancel, or suspend for a specified period, the registration of any person as such practitioner or pharmacist or nurse on any of the following grounds :—

- (a) that he has been convicted by a competent court of any offence which shows him to be unfit to be such practitioner or pharmacist or nurse; or
- (b) that he has been guilty of any misconduct in his capacity as such practitioner or pharmacist or nurse; or
- (c) that he has been deprived of any diploma or certificate which has constituted the qualification for such registration,

Grounds on which registration may be refused, cancelled or suspended.

(2) When any proceedings have been instituted before a court against any person who is a registered ayurvedic practitioner or registered ayurvedic pharmacist or registered ayurvedic nurse, in respect of any offence referred to in paragraph (a) of subsection (1), the Council may, by order, suspend the registration of that person as

* This is a reference to the University of Ceylon, established under the repealed Ceylon University Ordinance and continued as the University of Sri Lanka under the repealed University of Ceylon Act, No. 1 of 1972.

such practitioner, pharmacist or nurse, as the case may be, until a final judgment, order or other determination is made or entered by such court in those proceedings.

(3) Where a person is registered as an ayurvedic practitioner in both the general register and the special register, the Council shall, if his registration in the general register is cancelled, by order cancel his registration in the special register.

(4) No order of refusal, cancellation or suspension shall be made by the Council under subsection (1) or subsection (2) or subsection (3) in respect of any person until such person has been given an opportunity of being heard against the making of such order. At any such hearing—

(a) the Council may employ the services of a lawyer to lead the evidence and present the case against such person and of another lawyer to advise the Council and to act as judicial assessor; and

(b) such person may employ the services of a lawyer to lead evidence on his behalf and present his case.

(5) No order of refusal, cancellation or suspension made by the Council under subsection (1) or subsection (2) or subsection (3) in respect of any person shall take effect until the expiry of the period within which an appeal may be preferred against it to the Minister under section 63, and, in the event of an appeal being duly preferred against it to the Minister under that section, unless and until the order is confirmed in appeal.

Service of copies of orders made by the Council.

58. A copy of an order made by the Council allowing or refusing an application of any person for registration as an ayurvedic practitioner, ayurvedic pharmacist or ayurvedic nurse, or cancelling or suspending the registration of any person as such practitioner, pharmacist or nurse, shall be sent by registered post to such person by the Registrar.

Effect of orders made by the Council and duty of Registrar to give effect to such orders.

59. (1) An order made by the Council allowing the application of any person for registration as an ayurvedic practitioner, ayurvedic pharmacist or ayurvedic nurse, shall take effect on the date specified in the

order, and shall entitle that person to be registered, with effect from that date, in the appropriate register of ayurvedic practitioners, the register of ayurvedic pharmacists or the register of ayurvedic nurses, as the case may be. It shall be the duty of the Registrar, subject to the provisions of subsection (2) of section 60, to enter the name of, and such particulars as may be prescribed by rules made by the Council under this Act relating to, such person in such register.

(2) Where an order made by the Council cancelling the registration of any person as an ayurvedic practitioner, ayurvedic pharmacist or ayurvedic nurse takes effect, it shall be the duty of the Registrar to remove the name and particulars of that person from the register of ayurvedic practitioners, the register of ayurvedic pharmacists, or the register of ayurvedic nurses, as the case may be.

(3) Where an order made by the Council suspending the registration of any person as an ayurvedic practitioner, ayurvedic pharmacist or ayurvedic nurse takes effect, he shall not exercise or enjoy, during the period of such suspension, the rights and privileges conferred by this Act on a registered ayurvedic practitioner, registered ayurvedic pharmacist or registered ayurvedic nurse, as the case may be.

60. (1) The fee for registration as an ayurvedic practitioner, ayurvedic pharmacist or ayurvedic nurse shall be such sum as may be prescribed by rules made by the Council under this Act.

Registration fee.

(2) The Registrar shall not register the name of any person in the register of ayurvedic practitioners, the register of ayurvedic pharmacists or the register of ayurvedic nurses until the fee for registration as an ayurvedic practitioner, ayurvedic pharmacist or ayurvedic nurse, as the case may be, is paid by that person.

61. Where a person is registered as an ayurvedic practitioner, ayurvedic pharmacist or ayurvedic nurse, the Registrar shall send by registered post to such person a certificate of registration in such form as may be prescribed by rules made by the Council under this Act.

Certificate of registration.

Insertion of additional qualifications in the registers.

62. Where a registered ayurvedic practitioner, registered ayurvedic pharmacist or registered ayurvedic nurse obtains any recognized qualification relating to his profession which is not specified in the register of ayurvedic practitioners, the register of ayurvedic pharmacists or the register of ayurvedic nurses, as the case may be, in respect of him, such person shall be entitled, on payment of such fee as may be prescribed by rules made by the Council under this Act, to have such new qualification inserted in that register in respect of him.

In the section, " recognized qualification " means any qualification recognized for the purpose of this Act by the Ayurvedic Medical Council.

Appeals.

63. (1) Where an order is made by the Council under this Part refusing the application of any person for registration as an ayurvedic practitioner, ayurvedic pharmacist or ayurvedic nurse, or cancelling or suspending such registration, such person may, within fourteen days after the communication of that order to him, appeal against that order to the Minister.

(2) Upon the hearing of any appeal preferred under subsection (1), the Minister shall, after hearing any representations or evidence that may be adduced by or on behalf of the appellant or of the Council, give such decision not inconsistent with any provision of this Act upon the appeal as to the Minister may seem just.

(3) The decision of the Minister on any appeal preferred under subsection (1) shall be final and conclusive, and in any case where such decision is that an application for the registration of any person as an ayurvedic practitioner, ayurvedic pharmacist or ayurvedic nurse shall be allowed, it shall be the duty of the Registrar, subject to the provisions of subsection (2) of section 60, to enter the name of, and such particulars as may be prescribed by rules made by the Council under this Act relating to, that person in the register of ayurvedic practitioners, the register of ayurvedic pharmacists or the register of ayurvedic nurses, as the case may be.

64. (1) A registered ayurvedic practitioner, and no other person, shall be entitled to use the title " Vaidyacarya" either before or after his name.

Use of the title "Vaiyacyarya".

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

65. For the purposes of any written law, a registered ayurvedic practitioner shall be deemed to be a legally or duly qualified practitioner of ayurveda.

Meaning of " legally or duly qualified practitioner of ayurveda ".

66. For the purposes of any written law, a registered ayurvedic pharmacist shall be deemed to be a legally or duly qualified ayurvedic pharmacist.

Meaning of " legally or duly qualified ayurvedic pharmacist".

67. (1) Every registered ayurvedic practitioner shall be entitled to practise ayurveda.

Privileges of registered ayurvedic practitioners.

(2) Every registered ayurvedic practitioner shall be entitled to sue for and recover in due course of law by action in a court of competent jurisdiction any reasonable sum claimed by him as—

- (a) fees for any services rendered or advice given or work done in his professional capacity;
- (b) charges for any medicines, medicinal preparations or appliances or medicated articles of food or drink, supplied by him; or
- (c) expenses incurred by him in connexion with or for the purposes of the medical treatment of any patient.

68. No person who is not a registered ayurvedic practitioner shall be entitled to institute or maintain an action-at-law in any court for the recovery of any fees, charges or expenses of any description referred to in subsection (2) of section 67,

Disabilities of unregistered ayurvedic practitioners.

69. (1) A person who, not being a registered ayurvedic practitioner,—

(a) uses the title of " registered ayurvedic practitioner" in Sinhala or its equivalent in any other language, either alone or in combination with any other word or letters ; or

Pretence to be a registered ayurvedic practitioner, or practising for gain as an ayurvedic practitioner when not registered to be an offence.

(b) uses any name, title, addition or description implying that such person is a registered ayurvedic practitioner,

(a) he employs a registered ayurvedic pharmacist to personally superintend and manage the sale or dispensing of medicines, drugs or poisons at such pharmacy, and

shall be guilty of an offence.

(2) Any registered ayurvedic practitioner who, not being a person whose name is included in the special register of ayurvedic practitioners, uses any name, title, addition or description or otherwise does any act of any kind, implying that his name is so included shall be guilty of an offence.

(b) the name of the pharmacist so employed has been notified in writing to the Council.

(3) Any person who, not being a registered ayurvedic practitioner, practises for gain ayurvedic medicine or surgery shall be guilty of an offence.

72. Any person who, not being a registered ayurvedic pharmacist, or a registered ayurvedic nurse, practises for gain ayurvedic pharmacy or ayurvedic nursing, as the case may be, shall be guilty of an offence.

Practising for gain as an ayurvedic pharmacist or ayurvedic nurse when not registered to be an offence.

73. Every person whose name is included in any register which, by virtue of subsection (3) of section 51, is deemed to be a register of ayurvedic practitioners maintained under this Act shall be deemed to be a registered ayurvedic practitioner.

Certain persons deemed to be registered as ayurvedic practitioners under this Act.

Registered ayurvedic pharmacists and registered ayurvedic nurses entitled to practise.

70. (1) Every registered ayurvedic pharmacist shall be entitled to practise ayurvedic pharmacy.

(2) Every registered ayurvedic nurse shall be entitled to practise ayurvedic nursing.

Pretence to be a registered ayurvedic pharmacist or a registered ayurvedic nurse to be an offence.

71. (1) A person who, not being a registered ayurvedic pharmacist or a registered ayurvedic nurse,—

(a) uses the title of "registered ayurvedic pharmacist" or "registered ayurvedic nurse", as the case may be, in Sinhala or its equivalent in any other language, either alone or in combination with any other word or letters; or

(b) uses any name, title, addition or description implying that he is a registered ayurvedic pharmacist or a registered ayurvedic nurse, as the case may be,

shall, unless he is entitled to do so by virtue of subsection (2), be guilty of an offence.

(2) A person who is registered under section 10 as the proprietor of a registered ayurvedic pharmacy may, notwithstanding that he is not a registered ayurvedic pharmacist, use, for the purposes of the business of such pharmacy, any name, title, addition or description which may be used by a registered ayurvedic pharmacist, if—

PART VIII

GENERAL

74. Notwithstanding the change of designation of the Department heretofore called the Department of Indigenous Medicine, all persons holding office as members of the staff of that Department at the appointed date or otherwise employed in that Department at that date shall continue in office or employment in the Department for Ayurveda constituted by this Act.

Continuation in employment of members of the Department of Indigenous Medicine.

75. (1) Wherever, in any provision of any other written law or of any notice, permit, communication, form or other document issued, made, required or authorized by or under any other written law, the expression "Commissioner of Indigenous Medicine" occurs, there shall be substituted therefor the expression "Commissioner for Ayurveda"; and accordingly wherever in any such provision the abbreviation "Commissioner" is used to denote the Commissioner of Indigenous Medicine, such abbreviation shall be read and construed as a reference to the Commissioner for Ayurveda.

Amendment of other written laws, &c., consequent on the change of designation of the Commissioner of Indigenous Medicine, and savings for contracts, &c.

(2) If the designation of any office in the Department of Indigenous Medicine (as constituted prior to the appointed date) is altered—

- (a) the Minister may, by Order published in the Gazette, declare that the provisions of this subsection shall apply in relation to that designation; and
- (b) upon such declaration being made, then, wherever that designation occurs in any provision of any other written law or of any notice, permit, communication, form or other document issued, made, required or authorized by any other written law, there shall be substituted for that designation the new designation assigned to the corresponding office in the Department for Ayurveda.

(3) Every contract, agreement or other instrument or document whatsoever made, issued or executed prior to the appointed date by or in favour of the Commissioner of Indigenous Medicine or any officer of that Department in his capacity as such, shall be deemed on and after the appointed date to be and to have been made, issued, or executed by or in favour of the Commissioner for Ayurveda or the officer holding the corresponding office in the Department for Ayurveda in his capacity as such; and any reference in any such contract, agreement, or other instrument or document to any officer in the Department of Indigenous Medicine (as constituted prior to the appointed date) shall be read and construed as a reference to the officer holding the corresponding office in the Department for Ayurveda.

76. (1) On and after the appointed date, the College of Indigenous Medicine shall be called and known as the College of Ayurvedic Medicine, and the Hospital of Indigenous Medicine shall be called and known as the Central Hospital of Ayurveda.

(2) Notwithstanding the change of designation of the College heretofore called the College of Indigenous-Medicine, or of the Hospital heretofore called the Hospital

of Indigenous Medicine, all persons holding office as members of the staff of that College or that Hospital at the appointed date or otherwise employed in that College or that Hospital at that date shall continue in office or employment in the College of Ayurvedic Medicine or the Central Hospital of Ayurveda, as the case may be.

(3) Wherever, in any provisions of any other written law or of any notice, permit, communication, form or other document issued, made, required or authorized by or under any other written law, the expression "Principal of the College of Indigenous Medicine" occurs, there shall be substituted therefor the expression "Principal of the College of Ayurvedic Medicine", or the expression "Medical Superintendent of the Hospital of Indigenous Medicine" occurs, there shall be substituted therefor the expression "Medical Superintendent of the Central Hospital of Ayurveda"; and accordingly wherever in any such provision the abbreviation "Principal" or "Medical Superintendent" is used to denote the Principal of the College of Indigenous Medicine or the Medical Superintendent of the Hospital of Indigenous Medicine, such abbreviation shall be read and construed as a reference to the Principal of the College of Ayurvedic Medicine or the Medical Superintendent of the Central Hospital of Ayurveda, as the case may be.

(4) If the designation of any office in the College of Indigenous Medicine or the Hospital of Indigenous Medicine (as constituted prior to the appointed date) is altered—

- (a) the Minister may, by Order published in the Gazette, declare that the provisions of this subsection shall apply in relation to that designation; and
- (b) upon such declaration being made, then, wherever that designation occurs in any provision of any other written law or of any notice, permit, communication, form or other document issued, made, required or authorized by any other written law, there shall be substituted for that designation the new designation assigned to the

Change of name of the College of Indigenous Medicine and the Hospital of Indigenous Medicine and consequential provisions.

corresponding office in the College of Ayurvedic Medicine or the Central Hospital of Ayurveda, as the case may be.

(5) Every contract, agreement, or other instrument or document whatsoever made, issued, or executed prior to the appointed date by or in favour of the Principal of the College of Indigenous Medicine or the Medical Superintendent of the Hospital of Indigenous Medicine or any officer of that College or that Hospital in his capacity as such, shall be deemed on and after the appointed date to be and to have been made, issued, or executed by or in favour of the Principal of the College of Ayurvedic Medicine or the Medical Superintendent of the Central Hospital of Ayurveda, as the case may be, or of the officer holding the corresponding office in that College or that Hospital in his capacity as such; and any reference in any such contract, agreement, or other instrument or document to any officer of the College of Indigenous Medicine or of the Hospital of Indigenous Medicine (as constituted prior to the appointed date) shall be read and construed as a reference to the officer holding the corresponding office in the College of Ayurvedic Medicine or the Central Hospital of Ayurveda, as the case may be.

Ayurvedic Code.

77. (1) Regulations may be made under this Act prescribing an Ayurvedic Code containing all such provisions in respect of all such matters as the authority empowered to make such regulations may deem necessary to prohibit, regulate or control the manufacture, sale, supply, distribution or dispensing of any article, substance or drug for the purpose of Ayurvedic medicine and surgery. Such Code may, without prejudice to the generality of the powers hereinbefore conferred, make provision in respect of all or any of the following matters;—

- (a) the declaration of any article, substance or drug as a poison, poisonous substance or dangerous drug, as the case may be, for that purpose;
- (b) the introduction and operation of a system of registration or licensing for the purpose of effecting such regulation or control, including the

making of applications for such registration or such licences, and the grant, refusal and cancellation of such registration or such licences;

- (c) the precautions to be taken, and the conditions to be complied with, in such manufacture, sale, supply, distribution or dispensing;
- (d) the books and records to be kept and maintained, and the returns to be furnished, by persons engaged in such manufacture, sale, supply, distribution or dispensing;
- (e) the inspection of the premises in which such manufacture, sale, supply, distribution or dispensing is carried on, and of the records and books kept and maintained for that purpose;
- (f) any other matters incidental to or connected with the matters aforesaid.

(2) The Ayurvedic Code may, in so far as it may be necessary for the purpose of giving full force and effect to the provisions of that Code, provide that any such provisions of the Poisons, Opium, and Dangerous Drugs Ordinance or the Excise Ordinance as are specified in that Code shall not apply, or shall apply subject to any such modifications so specified, to or in relation to any class of persons or any matters so specified:

Provided, however, that no such provision shall be made in that Code in respect of the Excise Ordinance without the prior concurrence of the Minister to whom the subject or function of the administration of that Ordinance has been assigned by the President.

78. Every person who contravenes or fails to comply with the provisions of any regulation shall be guilty of an offence.

Contravention of regulations an offence.

79. Where an offence under this Act is committed in or in relation to any registered ayurvedic hospital, any registered ayurvedic pharmacy, any registered ayurvedic dispensary or any registered ayurvedic store, then, without prejudice to any proceedings

Offences in relation to registered ayurvedic hospitals, pharmacies, dispensaries and stores.

that may be taken in respect of such offence against the person by whom it was committed, the person for the time being registered as the proprietor of such hospital, pharmacy, dispensary or store, as the case may be, as well as the person for the time being in charge thereof shall each be guilty of such offence unless he proves that such offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of such offence.

total number of votes polled at the election as may be set out in the regulations.

(3) No regulation made by the Minister shall have effect until it is approved by Parliament and notification of such approval is published in the Gazette.

83. The provisions of the Medical Ordinance shall not apply to or in relation to the practice of, or persons practising, medicine, surgery, pharmacy or nursing according to ayurveda.

Medical Ordinance not to apply to the practice of medicine, surgery, pharmacy or nursing according to ayurveda.

***85.** Section 64 of the Food and Drugs Act is hereby amended, in subsection (3) of that section, by the substitution, in paragraph (a) of that subsection, for all the words from "includes" to the end of that paragraph, of the words, "includes a registered ayurvedic practitioner within the meaning of that term in the Ayurveda Act; and"

Amendment of Food and Drugs Act.

86. Until the coming into force of the Ayurvedic Code, the Poisons, Opium, and Dangerous Drugs Ordinance shall have effect subject to the modifications specified in the Schedule to this Act.

Modification of Poisons, Opium, and Dangerous Drugs Ordinance.

***88.** All movable and immovable property of the Board of Indigenous Medicine is hereby transferred to, and shall be the property of, the State.

Transfer of property of Board of Indigenous Medicine to the State.

89. In this Act, unless the context otherwise requires,—

Interpretation.

"appointed date" means the 1st day of October, 1962;

"approved ayurvedic teaching institution" means any ayurvedic teaching institution approved by the Minister for the purposes of this Act;

"ayurveda" includes the Siddha and Unani and Desiya Chikitsa systems of medicine and surgery and any other system of medicine indigenous to Asian countries and recognized as such by their

Punishment for offences under this Act.

80. Every person who commits an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees.

Duty of Registrar-General to notify the deaths of registered ayurvedic practitioners, registered ayurvedic pharmacists and registered ayurvedic nurses.

81. It shall be the duty of the Registrar-General of Births and Deaths to notify or to cause to be notified to the Ayurvedic Medical Council the name of any registered ayurvedic practitioner, registered ayurvedic pharmacist or registered ayurvedic nurse whose death is registered under the Births and Deaths Registration Act.

Regulations.

82. (1) The Minister may make regulations for the purpose of carrying out and giving effect to the principles and provisions of this Act.

[§ 3,5 of 1962.]

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters :—

(a) any matter for which regulations are authorized by this Act to be made;

[§2,6 of 1978.]

(b) the holding of elections necessary for the purpose of constituting, or filling vacancies in the Ayurvedic Medical Council or the Ayurveda Education and Hospital Board, including the calling for deposits from candidates seeking election and the forfeiture of any such deposit made by a candidate where the number of votes polled by him is less than such proportion of the

* Repealing sections 84 and 87 are omitted.

Repealed by the Food Act, No. 26 of 1980, with effect from 1st February, 1981.

respective Governments and the expression "ayurvedic" shall be construed accordingly:

appointed date, were administered by the Board of Indigenous Medicine;

[14, Law 7 of 1977.] " Ayurvedic College and Hospital Board " means the Ayurvedic College and Hospital Board established under subsection (1) of section 22 of this Act, prior to the amendment thereof by Law No. 7 of 1977 ;

" registered ayurvedic hospital" means a hospital registered under this Act as an ayurvedic hospital;

" registered ayurvedic nurse" means a person registered under this Act as an ayurvedic nurse;

" ayurvedic pharmacy " includes any place where ayurvedic drugs or medicines are manufactured, prepared or compounded;

" registered ayurvedic pharmacy " means a pharmacy registered under this Act as an ayurvedic pharmacy;

" Board of Indigenous Medicine " means the Board of Indigenous Medicine established under the Indigenous Medicine Ordinance ;*

" registered ayurvedic pharmacist " means a person registered as an ayurvedic pharmacist under this Act;

" College of Indigenous Medicine " means the College of Indigenous Medicine which, on the day immediately preceding the appointed date, was administered by the Board of Indigenous Medicine;

" registered ayurvedic practitioner" means a person registered as an ayurvedic practitioner under this Act, and includes any person who is deemed to be so registered under section 73;

" dispensary" means any premises (howsoever described) used or intended to be used for the outdoor treatment of persons suffering from illness, but does not include a pharmacy;

" register of ayurvedic nurses " means the register maintained by the ' Ayurvedic Medical Council under this Act for the registration of ayurvedic nurses ;

" hospital" means any premises (howsoever described) used or intended to be used for the reception, nursing and treatment of persons suffering from any illness or infirmity, and includes a nursing home or maternity home, but does not include a dispensary;

" register of ayurvedic practitioners" means the general register, or the special register, maintained by the Ayurvedic Medical Council under this Act for the registration of ayurvedic practitioners, and includes any register which is deemed to be a general register of ayurvedic practitioners or a special register of ayurvedic practitioners under subsection (3) of section 51; and

" Hospital of Indigenous Medicine " means the Hospital of Indigenous Medicine and the Pharmacy, Herbarium and Dispensary attached thereto which, on the day immediately preceding the

" register of ayurvedic pharmacists" means the register maintained by the Ayurvedic Medical Council under this Act for the registration of ayurvedic pharmacists.

SCHEDULE

MODIFICATION OF THE POISONS, OPIUM, AND DANGEROUS DRUGS ORDINANCE

Section 2 : (1) As though the definitions of " medical practitioner ", " dentist " and " pharmacist ", were omitted.

* Repealed by Act No. 31 of 1961.

(2) As though, immediately after the definition of " container ", there were inserted the following new definition :—

" dentist " means a person registered as a dentist under the Medical Ordinance ;'

(3) As though, immediately after the definition of " local authority ", there were inserted the following new definitions:—

"Medical practitioner" means a person registered as a medical practitioner under the Medical Ordinance, and includes a registered ayurvedic practitioner ;

" pharmacist" means a person registered as a pharmacist under the Medical Ordinance, and includes a registered ayurvedic pharmacist;

" registered ayurvedic pharmacist" means a person registered as an ayurvedic pharmacist under the Ayurveda Act, and includes any person who, by virtue of subsection (2) of section 71 of that Act, is entitled to use, for the purposes of the business of a registered ayurvedic pharmacy, any name, title, addition or description which may be used by a registered ayurvedic pharmacist;

" registered ayurvedic practitioner " has the same meaning as in the Ayurveda Ad, '.

Section 10: As though in paragraph (a) of that section, there were omitted the words " a vederala, ".

Section 12: As though section 12 were repealed.

Section 13: As though in subsection (2) of that section, there were omitted the word " vederala, ".

Section 23: As though in paragraph (a) of subsection (3) of that section, there were omitted the word " vederalas,".

Section 32: As though in subsection (2) of that section, there were substituted, for the words "registered vederalas ". the words " registered ayurvedic practitioners.".

Section 35: (1) As though in subsection (1) of that section, there were substituted, for the words "registered vederalas.", the words " registered ayurvedic practitioners-".

(2) As though in paragraph (b) of subsection (4) of that section, there were substituted, for the words " registered vederala ", the words " registered ayurvedic practitioner, ".

Section 36: As though in paragraph (b) of that section, there were substituted, for the words "registered vederala ", the words " registered ayurvedic practitioner ".

Section 42: (1) As though for the marginal note to that section, there were substituted the following new marginal note:—

" Appointment of
boards to deal
with applications
for opium
certificates. "

(2) As though subsection (1) of that section were repealed.

(3) As though subsection (2), subsection (3), subsection (4), subsection (5) and subsection (6) of that section were renumbered as subsection (1), subsection (2), subsection (3), subsection (4) and subsection (5).

(4) As though in renumbered subsection (2) of that section, there were substituted—

(a) for the words " registration by vederalas ", the words " opium certificates by registered ayurvedic practitioners ";

(b) for the words "direct or refuse registration", the words "grant or refuse such applications "; and

(c) for the word " vederala," the words " ayurvedic practitioner,".

(5) As though in renumbered subsection (3) of that section, there were substituted, for the words " registration of a vederala", the words " opium certificate of a registered ayurvedic practitioner ".

(6) As though in renumbered subsection (5) of that section, there were substituted, for the words " vederalas registered in his district", the words " the registered ayurvedic practitioners in his district to whom opium certificates have been issued ",

Section 43: (1) As though for the marginal note to that section, there were substituted the following new marginal note:—

" Supply of opium
to registered
ayurvedic
practitioners,"

(2) As though in subsection (1) of that section, there were substituted, for all the words from "The " to " vederala ", the following:—

"Where an application for an opium certificate by a registered ayurvedic practitioner is granted by the Board, the Government Agent shall issue such certificate to such practitioner ".

(3) As though in subsection (2) of that section, there were substituted—

(a) for the words " registration of a vederala ", the words " opium certificate of a registered ayurvedic practitioner "; and

(b) for the words " the vederala ", the words " such practitioner " .

(4) As though in paragraph (a) of subsection (3) of that section, there were substituted—

(a) for the word " vederala ", the words " ayurvedic practitioner "; and

(b) for the words " certificate of registration ", the words " opium certificate ".

(5) As though in paragraph (b) of subsection (3) of that section, there were substituted, for the word " vederala ", the words " ayurvedic practitioner ".

Section 46: As though the words " or a vederala " and the words " or vederalas " were omitted.

Section 58: As though in subsection (2) of that section, there were substituted, for the words "Medical Ordinance, ", the following:—

"Medical Ordinance and, where the medical practitioner is a registered ayurvedic practitioner, refer the case to the Ayurvedic Medical Council established under the Ayurveda Act and not the Ceylon Medical Council,".

Section 74: As though in paragraph (b) of that section, there were omitted the words " or as a vederala, ".

Second Schedule:

(1) As though in paragraph (3) of regulation 10, there were substituted—

(a) for the words " consumers and vederalas ", the words " consumers, and of registered ayurvedic practitioners to whom opium certificates have been issued, "; and

(b) for the word " vederala ", the word " practitioner ".

(2) As though in regulation 15—

(a) there were substituted in paragraph (1) of that regulation—

(i) for the word " vederalas ", the words " registered ayurvedic practitioners to whom opium certificates have been issued ", and

(ii) for the words " consumer's or vederala's certificate ", the words " consumer's certificate of registration or registered ayurvedic practitioner's opium certificate "; and

(b) there were substituted in paragraph (2) of that regulation, for the word "vederala ", wherever it occurs therein, the words " registered ayurvedic practitioner ".

(3) As though in regulation 16, there were substituted, for the words "vederala", the words "registered ayurvedic practitioner".

(4) As though there were substituted in Part IV, for the heading " Vederalas ", the heading " Registered Ayurvedic Practitioners ".

(5) As though in regulation 26, there were substituted, for the words " to be registered as vederalas ", the words " for opium certificates by registered ayurvedic practitioners ".

- (6) As though in regulation 27, there were substituted, for the words "Certificates of registration", the words "Opium certificates", and for the word "vederala", the words "registered ayurvedic practitioner".
- (7) As though in regulation 28, there were substituted, for the word "vederalas", the words "registered ayurvedic practitioners to whom opium certificates have been issued".
- (8) As though in regulation 29, there were substituted, for the word "vederalas", the words "registered ayurvedic practitioners".
- (9) As though in regulation 30, there were substituted, for the word "vederala," the words "ayurvedic practitioner to whom an opium certificate has been issued, ".
- (10) As though in regulation 31, there were substituted—
 - (a) for the word " Regulation ", the words and figures " Paragraphs (1) to (4) of regulation ";
 - (b) for the word " vederalas ", the words " registered ayurvedic practitioners "; and
 - (c) for the words " it applies ", the words " they apply ".
- (11) As though immediately after regulation 31, there were inserted the following new regulation:—

" 32. In the case of a lost or mutilated opium certificate, the Government Agent or opium officer shall issue a true copy of that certificate. The true copy must bear the same number as the original certificate. "
- (12) As though in Opium Form No. 5, there were substituted—
 - (a) for the word "VEDERALAS" the words "REGISTERED AYURVEDIC PRACTITIONERS TO WHOM OPIUM CERTIFICATES HAVE BEEN ISSUED";
 - (b) for the words " Certificate of Registration ", the words " Opium Certificate "; and
 - (c) for the word " Vederala", wherever it occurs therein, the words " Registered Ayurvedic Practitioner".
- (13) As though in Opium Form No. 9,—
 - (a) there were substituted, for the words "TO BE REGISTERED AS A VEDERALA", the words "FOR AN OPIUM CERTIFICATE BY A REGISTERED AYURVEDIC PRACTITIONER ";
 - (b) there were omitted the items 6, 7 and 8; and
 - (c) items 9 and 10 were renumbered as items 6 and 7.
- (14) As though for Opium Form No. 10, there were substituted the following:—

" (Regulation 27)

Opium Form No. 10

OPIUM CERTIFICATE OF A REGISTERED
AYURVEDIC PRACTITIONER

(Not transferable)

I certify under Chapter IV of the Poisons, Opium, and Dangerous Drugs Ordinance that....., of..... who is a registered ayurvedic practitioner, is entitled to be supplied with opium of the description and quantity specified in the Schedule hereto for the period so specified and that he may obtain such opium from the opium officer so specified.

Schedule

Quantity and kind of opium
allowed for six months :—

Opium officer from whom the
opium may be obtained ;—

.....
Signature of Government Agent or Assistant Government Agent.

Date: 19 .. .".

(15) As though in Opium Form No. 11, there were substituted—

(a) for the word "VEDERALAS", the words " REGISTERED AYURVEDIC
PRACTITIONERS TO WHOM OPIUM CERTIFICATES HAVE BEEN
ISSUED";

(b) for the words "Certificate of Registration ", the words " Opium Certificate ";

(c) for the word " Vederala ", the words " Registered Ayurvedic Practitioners "; and

(16) As though in Opium Form No. 20, there were omitted the words " OR VEDERALA ", and the words
" or Vederala " wherever they occur in that Form.

(17) As though in Opium Form No. 21, there were substituted, for the word "Vederala", the words
" Registered Ayurvedic Practitioner ".

ANTIQUITIES

CHAPTER 394

ANTIQUITIES

Ordinance
No. 9 of 1940,

AN ORDINANCE TO PROVIDE FOR THE BETTER PRESERVATION OF THE ANTIQUITIES
OF SRI LANKA.

[15th July. 1940.]

Short title.

1. This Ordinance may be cited as the Antiquities Ordinance.

and, where any such antiquity is retained by the Archaeological Commissioner on behalf of the State, there shall be paid by the State—

PART I

PROPERTY IN ANTIQUITIES

Property in
antiquities.

2. (1) No antiquity shall, by reason only of its being discovered in or upon any land in the ownership of any person, be or be deemed to be the property of such person;

Provided that such person shall be deemed to be interested in such antiquity in accordance with the provisions of this Ordinance.

(2) Every ancient monument which on the date on which this Ordinance comes into operation is not owned by any person or the control of which is not vested in any person as trustee, incumbent or manager, shall be deemed to be the absolute property of the State.

(3) All undiscovered antiquities (other than ancient monuments), whether lying on or hidden beneath the surface of the ground

(a) one-half of the market value of the antiquity to the finder thereof and one-half of such value to the owner of the land in which the antiquity was found, or

(b) where the same person is both the finder of the antiquity and the owner of such land, the whole of the market value of the antiquity to such person, or

(c) where the antiquity is found on State land by any person (other than the Archaeological Commissioner or any person acting under his authority in the discharge of any duty or function under this Ordinance), one-half of the market value of the antiquity to the finder thereof;

Provided that on the retention by the State of any antiquity no such payment as aforesaid shall be made to the finder thereof where the finder has failed to report the discovery of that antiquity in accordance with the provisions of section 10 or section 14, as the case may be.

Payment by
the State of
market value
of certain
antiquities

3. On the discovery of any antiquity (other than an ancient monument), the Archaeological Commissioner, on behalf of the State, shall be entitled to the custody and possession of such antiquity, unless in any case the Archaeological Commissioner does not consider it necessary that such antiquity shall be retained by the State;

4. (1) Notwithstanding the provisions of section 3, it shall be lawful for the Archaeological Commissioner, with the approval of the Minister, to enter into an agreement in writing with any person who would under the provisions of section 3 be entitled to the market value of any antiquity or any part of such value, whereby such

Agreement
as to
apportionment
of antiquities,
without
payment by the
State.

person shall receive from the State, in lieu of such value or part thereof, a share of such antiquity, to be apportioned in such manner as may be provided in the agreement.

(2) Every agreement under subsection (1) shall be free from stamp duty and shall have force and effect notwithstanding anything in section 3 :

Provided always that where the finder of any antiquity does not report the discovery thereof in accordance with the provisions of section 10 or section 14, as the case may be, he shall not be entitled to receive any share of such antiquity under any such agreement.

Dispute as to market value or apportionment of antiquities.

5. Where there is any dispute between the Archaeological Commissioner and any person as to the market value of any antiquity or as to the apportionment of any antiquity in terms of an agreement under section 4, such dispute shall be determined in the manner provided in section 45, and such determination shall be final and conclusive.

PART II

DISCOVERY OF ANTIQUITIES EXCAVATIONS

No excavation except upon licence from Archaeological Commissioner.

6. Subject as hereinafter provided, no person shall excavate for the purpose of discovering antiquities, whether on land belonging to himself or otherwise, except under the authority of a licence issued by the Archaeological Commissioner:

Provided that nothing in this section shall apply to any excavation carried out by or on behalf of the Archaeological Commissioner.

Application for licence to excavate.

7. Every application for a licence to excavate shall—

- (a) be made to the Archaeological Commissioner in the prescribed form, and

- (b) contain a full and accurate description of the land on which it is proposed to carry out the excavation, the nature and extent of the proposed excavation, and such other particulars as may be prescribed.

8. The Archaeological Commissioner may in his discretion grant or refuse any application for a licence to excavate : Grant or refusal of Licence to excavate.

Provided that no such licence shall be granted unless the Archaeological Commissioner is satisfied, after such inquiry as he may deem it necessary to make—

- (a) that the owner of the land where the proposed excavation is to be made has consented to the excavation, and
- (b) that the proposed excavation will not cause any damage or inconvenience to persons residing in the vicinity of such land, or to any place used for religious purposes, or to any cemetery, school, water source, irrigation work or public road, or that if any such damage is likely to be caused adequate provision has been made by the applicant for the payment of compensation therefor, and
- (c) that the applicant is able to furnish security for the due observance by him of the provisions of this Ordinance or any regulation, and of any conditions subject to which the licence may be issued.

9. Every licence to excavate shall be issued in the prescribed form, subject to the payment of the prescribed fee and shall remain in force, subject to the provisions of section 11, during the period specified in the licence. Terms of licence.

Any such licence may contain, in addition to the prescribed conditions, such

stipulations as the Archaeological Commissioner may deem necessary regarding—

- (a) the supervision of the proposed excavation by any person approved by the Archaeological Commissioner for the purpose;
- (b) the payment of remuneration to any such person not being a public officer, or the payment of the prescribed fee in respect of any service rendered by such person being a public officer; and
- (c) the security to be furnished by the licensee for the due observance of the provisions of this Ordinance and of the terms and conditions subject to which the licence is issued.

Duty of licensee in respect of discoveries.

10. Every person to whom a licence to excavate is granted shall keep a record in the prescribed form of all antiquities discovered in the course of the excavation and shall, within the prescribed period from the date on which any antiquity is discovered, report the discovery thereof to the Archaeological Commissioner and furnish to him the prescribed particulars in respect of the antiquity.

Withdrawal of licence without compensation.

11. Any licence to excavate may, at any time before the expiry of the period specified in the licence, be withdrawn by the Archaeological Commissioner and the licensee shall not be entitled to claim compensation for any loss or damage suffered or alleged to have been suffered by him by reason of such withdrawal.

Appeal against refusal or withdrawal of licence to excavate.

12. (1) Any person aggrieved by the refusal of the Archaeological Commissioner to issue a licence to excavate or the withdrawal by the Archaeological Commissioner of any such licence may appeal against such refusal or withdrawal to the Minister.

(2) The decision of the Minister on any appeal preferred under subsection (1) shall be final and conclusive.

13. The State shall incur no liability by reason of any loss sustained by any person or any damage caused to any person in the course of any excavation carried on under the authority of a licence granted under this Ordinance.

Immunity of State from claims for loss or damage.

DISCOVERY OF ANTIQUITIES OTHERWISE THAN UNDER A LICENCE TO EXCAVATE

14. (1) Every person who discovers any antiquity otherwise than under the authority of a licence to excavate—

Discovery of antiquities otherwise than under licence to excavate.

- (a) shall forthwith report the discovery to the nearest peace officer and, if it is practicable so to do, deliver the antiquity to such officer and obtain a receipt therefor from such officer, and
- (b) shall, within seven days of the discovery, report the discovery, together with the prescribed particulars relating thereto, to the Government Agent of the district in which the discovery was made.

(2) It shall be the duty of the Government Agent to whom the discovery of any antiquity is reported under paragraph (b) of subsection (1), to communicate forthwith to the Archaeological Commissioner the fact of such discovery together with the particulars furnished to him.

OFFENCES RELATING TO DISCOVERY OF ANTIQUITIES

15. (1) Every person who—

Offences relating to discovery of antiquities.

- (a) excavates in contravention of the provisions of section 6; or

- (b) commits a breach of any condition of any licence issued under section 6; or
- (c) fails to report the discovery of any antiquity in accordance with the provisions of section 10, or commits a breach of any other provision of that section; or
- (d) fails to report the discovery of any antiquity in accordance with the provisions of section 14 or commits a breach of any other provision of

(2) If any person who has been ordered to deliver any antiquity to the Archaeological Commissioner under subsection (1) does not deliver such antiquity within the specified time the Magistrate may order the Fiscal or a peace officer to take immediate possession of such antiquity and deliver it to the Archaeological Commissioner.

PART III

ANCIENT MONUMENTS

- (e) knowing or having reason to believe that any antiquity has been excavated in contravention of the provisions of section 6, purchases or removes, or otherwise acquires or purports to acquire, any such antiquity, whether for himself or on account of or as agent for any other person,

16. (1) The Minister may by Order in writing declare that any specified monument which dates or is believed to date from a period prior to the 1st day of January, 1850, shall, notwithstanding that such monument does not or is not believed to date to a period prior to the 2nd day of March, 1815, be deemed to be an ancient monument for the purposes of this Ordinance.

Declaration of a monument dating to period prior to 1850 as an ancient monument.

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 one year:

(2) Upon the publication in the Gazette of an Order under subsection (1), the monument to which the Order relates shall be deemed to be an ancient monument and all the provisions of this Ordinance relating to ancient monuments shall apply to that monument as if it were an ancient monument.

Provided that no person shall be liable to be convicted of an offence under paragraph (c) or paragraph (d) where the antiquity is, in the opinion of the court, insignificant or of trivial value;

Provided, further, that any person convicted of an offence under paragraph (c) or paragraph (d) in respect of any antiquity (other than an ancient monument), shall by virtue of such conviction, forfeit all claim or interest to or in that antiquity or the value thereof, and in any such case the Magistrate may order that the antiquity be delivered to the Archaeological Commissioner within such time as may be specified by the Magistrate; and where the Magistrate makes such order, it shall be the duty of any person in whose possession that antiquity may be to deliver it within the specified time to the Archaeological Commissioner.

17. (1) Where it appears to the Minister that any tree, whether growing in State land or any other land, is of such historical or archaeological importance, that it is necessary in order to secure the preservation or protection of such tree that the provisions of this Ordinance relating to ancient monuments should apply to such tree, the Minister may, by Order in writing, declare that such tree shall be deemed to be an ancient monument for the purposes of this Ordinance.

Declaration of specified trees as ancient monuments.

(2) Upon the publication in the Gazette of an Order under subsection(1), the tree to

ANTIQUITIES

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which the Order relates shall be deemed to be an ancient monument and all the provisions of this Ordinance relating to ancient monuments shall, *mutatis mutandis*, apply to such tree as if it were an ancient monument,

18. Where it appears to the Minister that any ancient monument situated on any land other than State land is in danger of destruction or removal, or damage from neglect or injudicious treatment, and that it is in the public interest that such monument should be protected, he may, subject to the provisions of section 19, by Order published in the Gazette, declare such monument to be a protected monument; and from the date of the publication of such Order, the monument to which the Order relates shall be a protected monument for the purposes of this Ordinance.

19. (1) No Order under section 18 shall be made unless the Minister has given notice in the Gazette in accordance with the provisions of this section, of his intention to make such Order.

(2) Every notice under subsection (1) shall specify a date on or before which objections to the proposed Order will be received by the Archaeological Commissioner.

(3) Every objection preferred in consequence of a notice under subsection (2) shall be made in writing and shall contain a statement of the grounds upon which the objection is made.

(4) The Archaeological Commissioner shall transmit all objections received by him together with his report thereon to the Minister.

(5) The Minister shall consider all objections transmitted under subsection (4) and may for the purpose of investigating any such objection make or cause to be made such inquiry as to him may seem

20. (1) The owner of any land on which a protected monument is situated and the Archaeological Commissioner may enter into a written agreement providing for the due conservation of such monument and its protection from danger of destruction or removal and from damage by neglect or injudicious treatment.

(2) Every agreement entered into under subsection (1) shall be free of stamp duty.

21. (1) No person shall, except under the authority and in accordance with the conditions of a permit issued by the Archaeological Commissioner, or in accordance with an agreement entered into under section 20, commence or carry out any work of restoration, repair, alteration or addition in connexion with any protected monument.

(2) Every permit under subsection (1) shall be issued in the prescribed form subject to the prescribed conditions and may contain such additional conditions as the Archaeological Commissioner may deem fit to insert therein regarding—

- (a) the supervision of the proposed work by the Archaeological Commissioner or by any person approved by him for the purpose; and
- (b) the payment of remuneration to any such person, not being a public officer, or the payment of the prescribed fee in respect of any service rendered by such person, being a public officer.

22. (1) The Archaeological Commissioner may in his discretion—

- (a) refuse to issue a permit under section 21 in any case in which he is of opinion that the applicant for such permit is unable to carry out and

Agreements in regard to protected monuments.

No restoration, &c., of protected monument, except upon permit.

Refusal or revocation of permit under section 21.

Notification of protected monuments.

Previous notice of intention to declare an ancient monument to be a protected monument.

authorize which such permit is applied for, or that such work is unnecessary;

- (b) after notice in writing to the holder of any such permit revoke such permit, if he is of opinion that the work is not being carried out satisfactorily or in accordance with the conditions and restrictions subject to which such permit was issued.

(2) Any person aggrieved by the refusal or revocation of any permit by the Archaeological Commissioner may appeal against such refusal or revocation to the Minister whose decision on any such appeal shall be final and conclusive.

23. (1) Where a permit under section 21 has not been issued in respect of any protected monument, or where any such permit has been revoked, the Archaeological Commissioner may, with the approval of the Minister, carry out or cause to be carried out under and in accordance with his directions such work of restoration, repair, alteration or addition in connexion with that monument as to him may seem expedient.

(2) It shall be the duty of the owner of any monument, in connexion with which any work is authorized to be carried out under subsection (1), to permit the Archaeological Commissioner or any person acting under the directions of the Archaeological Commissioner to enter the land in which that monument is situated and to do all such acts as may be necessary for the purpose of carrying out such work; and such owner shall not be entitled to claim compensation for any loss or damage suffered or alleged to have been suffered by him by reason of the execution of such work or any part of such work.

24. (1) Regulations may be made prohibiting, or restricting subject to the prescribed conditions, the erection of buildings or the carrying on of mining, quarrying, or blasting operations on any land within the prescribed distance of any ancient monument situated on State land or any protected monument.

(2) Every regulation made under subsection (1) shall have effect notwithstanding anything in any other written law; but nothing in any such regulation shall permit or be deemed to permit the erection of any building or the carrying on of any operations mentioned in subsection (1) in contravention of any provision of such other law.

25. (1) The owner of any land affected by any prohibition or restriction in any regulation made under section 24 who suffers any loss or damage by reason of any such prohibition or restriction, may forward to the Archaeological Commissioner within the prescribed period a claim for compensation in respect of such loss or damage:

Claim for compensation by owner of land affected by regulations under section 24.

Provided, however, that where the owner of any land on which any ancient monument is situated commences the erection of any building or the carrying on of any mining, quarrying or blasting operations on such land after a notice of the intention to declare such monument to be a protected monument is published in the Gazette under section 19, he shall not be entitled to any compensation for any loss or damage suffered by reason of the prohibition or restriction of such erection or operations by any regulation made under section 24.

(2) Every claim made under subsection (1) shall specify—

- (a) the amount of compensation claimed;
- (b) the grounds on which the claim is based;
- (c) the person chosen by the claimant as a member of the compensation board to be established under section 26 in respect of that claim; and
- (d) such other particulars as may be prescribed.

Power of Archaeological Commissioner to restore, repair, &c., protected monuments.

Prohibition or restriction of building, mining, &c., in vicinity of certain monuments.

(3) The Archaeological Commissioner shall transmit every claim received by him under subsection (1) to the Minister and shall specify the person chosen by him as a member of the compensation board to be established under section 26 in respect of that claim.

(4) No person who fails to make a claim under subsection (1) within the period prescribed for the purposes of that subsection shall be entitled to any compensation for any loss or damage for which a claim under that subsection might have been made, and no action in respect of any such loss or damage shall be entertained by any court or tribunal.

(5) Any compensation determined by a compensation board under section 27 or, where an appeal is preferred to a District Court, by a District Court under section 30, shall be paid to the claimant out of funds provided by Parliament for the payment of compensation to claimants under this section.

Establishment of compensation board.

26. (1) The Minister shall, on the receipt of any claim under section 25, establish a compensation board (hereinafter referred to as "the board") and shall refer the claim to such board.

(2) The board shall consist of a chairman, who shall be nominated by the Minister, and the two persons chosen by the claimant and the Archaeological Commissioner under section 25.

Decision of the board after inquiry.

27. (1) The board shall inquire into the claim referred to it under section 26 and give its decision as to the amount of compensation, if any, which shall be paid to the claimant.

(2) Where the board is not unanimous in its decision, the decision of the majority of the members shall be the decision of the board.

(3) Where a majority of the members of the board are unable to agree on the decision, the decision of the chairman shall be the decision of the board.

28. (1) For the purpose of holding any inquiry under section 27 the board shall have and may exercise the same powers as a civil court in relation to—

Powers of the board.

- (a) the enforcing of the attendance of any person and his examination on oath;
- (b) the enforcing of the production of documents; and
- (c) the issuing of commissions for the examination on interrogatories or otherwise of any person,

and the provisions of the Civil Procedure Code shall, for the purpose of the exercise of such powers, apply to proceedings by or before the board as if such board were a court and such proceedings were an action instituted in a court under that Code.

(2) The claimant and the Archaeological Commissioner shall be entitled to appear before the board either in person or by pleader and place before it such evidence whether oral or documentary as may help the board to determine the amount of compensation, if any, to be awarded.

(3) At an inquiry under this section the chairman of the board shall keep or cause to be kept a full record of the proceedings, and shall either at the conclusion of the inquiry or on a date to be later notified to the parties pronounce the decision of the board which must be in writing signed by the chairman.

(4) At any time after the decision of the board has been pronounced, either of the parties to the inquiry or any person establishing to the satisfaction of the Minister that he is a person interested in the subject-matter of the inquiry shall be entitled, upon prepayment of the copying and other charges payable under section 3 of the Proof of Public Documents Ordinance, to obtain a copy of the proceedings before the board certified under the hand of the public officer entrusted with

the duty of keeping the records of the board:

Provided that such public officer shall not be required to issue a certified copy during the pendency of an appeal to the District Court.

Appeal to District Court from decision of the board and procedure thereon.

29. (1) The claimant or the Archaeological Commissioner may in the manner hereinafter provided appeal from any decision of the board to the District Court of the district in which the land in respect of which compensation has been claimed is situate (hereinafter referred to as " the court ").

(2) Every appeal under subsection (1) shall be by written petition signed by the appellant or his attorney-at-law and shall be lodged with the Registrar of the court not later than thirty days from the date of the decision of the board.

(3) The petition of appeal shall state—

- (a) the full name and address of the respondent,
- (b) the grounds of appeal, and
- (c) the relief prayed for.

(4) The appellant or his attorney-at-law shall together with the petition of appeal deliver a typed or printed copy of the petition of appeal certified under the hand of the appellant or his attorney-at-law.

(5) On the lodgement of the petition of appeal together with a certified copy thereof, the court shall inform the public officer entrusted with the duty of keeping the records of the board that an appeal has been lodged and require him to forward to the court within a specified time the record of the proceedings in respect of which the appeal has been lodged with the written decision of the board.

(6) Upon the receipt of the record of the proceedings and the written decision of the board the court shall cause to be served on

the respondent the certified copy of the petition of appeal together with a notice stating the date and time fixed for the hearing of the appeal.

30. (1) The court shall have full power to hear and determine an appeal under section 29, and the provisions of sections 769, 770, 771, 772 and 774 of the Civil Procedure Code shall, *mutatis mutandis*, apply to the hearing by the court of appeals from the board:

Hearing of appeal by the court and its powers.

Provided that in every case the judgment of the court shall be signed and dated by the District Judge.

(2) At the hearing of the appeal the parties shall not be entitled to rely on any evidence that has not been placed before the board:

Provided that the court may call for any evidence which in the judgment of the court is necessary for the decision of the appeal.

(3) The court may confirm the decision of the board or reduce or increase the amount of compensation awarded by the board and make such other order as to costs or otherwise as the court shall deem just.

(4) The decision of the court shall be final and no appeal from or application for revision of any decision of the court shall lie to the Court of Appeal.

(5) No stamp duties shall be required in any proceedings in the court under sections 29 and 30.

(6) The court may upon prepayment of the charges payable under section 205 of the Civil Procedure Code authorize the Registrar to furnish to any party to an appeal a certified copy of the record of the proceedings of the board in respect of which the appeal has been lodged, at any time after the record has been received in the court and before its decision is pronounced.

(7) The court shall after the decision of an appeal return the record of the proceedings of the board to the public officer entrusted with the duty of keeping the records of the board.

31. Any person who—

- (a) wilfully destroys, injures, defaces or tampers with any protected monument or any ancient monument on State land ; or
- (b) does in, upon, to, near or in respect of any ancient monument which is held sacred or in veneration by any class of persons, any act which wounds or offends or is likely to wound or offend the religious susceptibilities of the class of persons by whom such ancient monument is held sacred or in veneration,

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

32. Every person who commits a breach of—

- (a) any provision of section 21, or
- (b) any regulation made under section 24,

shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding one year.

PART IV

ARCH/EOLOGICAL RESERVES

33. (1) The Archaeological Commissioner may—

- (a) with the approval of the Land Commissioner, or

(b) if approval is refused by the Land Commissioner, with the approval of the Minister to whom the subject of State lands is for the time being assigned, declare, by notification published in the Gazette, any specified area of that land to be an archaeological reserve for the purposes of this Ordinance.

(2) Any area of State land reserved for archxological purposes before the date on which this Ordinance comes into operation, whether by notification in the Gazette or otherwise, shall be deemed to be an archaeological reserve declared under the provisions of this section.

34. Every person (other than the Archaeological Commissioner, or a person acting under and in accordance with his directions) who—

- (a) clears or breaks up for cultivation or cultivates any part of an archxological reserve, or
- (b) erects any building or structure upon any such reserve, or
- (c) fells or otherwise destroys any tree standing on any such reserve, or
- (d) otherwise encroaches on any such reserve,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment, and the Magistrate may, in addition to passing any such sentence, make order that such person shall be forthwith ejected from such reserve :

Provided that no person shall be convicted under this section unless the land in respect of which the offence is committed has

Penalty for destruction, desecration, &c., of ancient monuments.

Futher offences.

Archaeological reserves.

Encroachments, &c., on archxological reserves.

been declared to be the property of the State under the Land Settlement Ordinance or under any enactment repealed by that Ordinance, or has been acquired by the State under the Land Acquisition Act or the Land Acquisition Ordinance* or has been resumed by the State under the Lands Resumption Ordinance or has been in the possession of the State immediately before the date on which the offence is committed.

Ejection of person convicted under section 34.

35. (1) Where no appeal has been preferred against the conviction of any person of an offence under section 34, or, where an appeal has been preferred, after the final judgment or order of the Court of Appeal or the Supreme Court, as the case may be, affirming the conviction, the Magistrate may on the application of the Archaeological Commissioner make order directing the Fiscal or a peace officer to eject the person convicted from the archaeological reserve and to deliver possession thereof to the Archaeological Commissioner or his representative.

(2) The Fiscal or peace officer shall comply with the directions of the Magistrate under subsection (1) and shall make due return to the Magistrate's Court of the manner in which he executed the order.

(3) In complying with the directions issued under subsection (1) the Fiscal or peace officer or any officer authorized by either of them may use such force as may be necessary to enter the archaeological reserve, to eject the person convicted and to deliver possession of the archaeological reserve to the Archaeological Commissioner or his representative.

PART V

EXPORT OF ANTIQUITIES

Prohibition of export of antiquities except upon licence.

36. (1) No person shall, except upon a licence in the prescribed form issued by the Archaeological Commissioner, export any antiquity from Sri Lanka.

(2) For the purposes of the application of the provisions of the Customs Ordinance, antiquities shall be deemed to be articles the exportation of which is restricted by enactment or legal order.

37. (1) Every application for a licence under section 36 shall be made to the Archaeological Commissioner in the prescribed form, shall set out a list of the antiquities sought to be exported, and shall contain such other particulars as may be prescribed.

Applications for licence to export antiquities.

(2) If the Archaeological Commissioner is of opinion that any antiquity sought to be exported should be acquired for the Colombo or other museum in Sri Lanka or that for any other reason it is not desirable that such antiquity should be exported, he may refuse to issue a licence under section 36 in respect of that antiquity.

38. (1) Any person aggrieved by the refusal of the Archaeological Commissioner under section 37 to issue any licence may appeal against such refusal to the Minister.

Appeal against refusal of licence.

(2) The decision of the Minister on any appeal preferred under subsection (1) shall be final and conclusive.

39. (1) Where a licence to export any antiquity has been refused on the ground that such antiquity should be acquired for the Colombo or other museum in Sri Lanka, and there is a dispute between the authority empowered to purchase objects for the use of such museum and the owner of the antiquity as to the price to be paid therefor, such price shall be determined in the manner provided in section 45, and such determination shall be final and conclusive. On payment of the price so determined the antiquity shall become the absolute property of the museum.

Acquisition by museum of antiquity sought to be exported.

(2) Where the price determined under subsection (1) is not paid to the owner of

* Repealed by Act No. 9 of 1950.

the antiquity within two months from the date on which the price was so determined, the museum shall be deemed to have lost all right to the acquisition of the antiquity at such price, and the Archaeological Commissioner shall issue a licence to export the antiquity subject to any other conditions which may be applicable to the issue of such licence being complied with.

Provided that no such drawings, photographs or reproductions shall be sold without the consent of the person in possession of the antiquity.

43. The Archaeological Commissioner may generally or specially authorize the exercise, performance or discharge of any of his powers, duties or functions under this Ordinance—

Authorization- of Government Agents and other officers to exercise powers of Archaeological Commissioner.

- (a) by the Government Agent of any district, within that district; or
- (b) by any officer of the Department of Archeology, either throughout Sri Lanka or in any specified area.

PART VI

POWERS AND DUTIES OF ARCH/EOLOGICAL COMMISSIONER

Powers of Archaeological Commissioner.

40. The Archaeological Commissioner is hereby empowered—

- (a) to prepare a list of ancient monuments;
- (b) to conserve, maintain, repair and restore all ancient monuments on State land and such protected monuments as may from time to time be specified by the Minister;
- (c) to purchase valuable antiquities, other than ancient monuments, with such funds as may be granted for the purpose by Parliament;
- (d) to carry out excavations with the approval of the Minister.

Duties of Archaeological Commissioner.

41. The ArchEcological Commissioner shall perform and discharge ail such duties and functions as are assigned, to him by this Ordinance or any regulation.

Power of inspection. &c. of antiquities.

42. The Archaeological Commissioner or any officer authorized by him in writing for the purpose may at all reasonable times inspect any antiquity in the possession of any person ; and it shall be the duty of every such person to permit such inspection and further to give to the Archaeological Commissioner or such officer all reasonable facilities to study such antiquity and to make drawings, photographs or reproductions thereof by the making of casts or by any other means :

PART VII

MISCELLANEOUS

44. Every person who commits a breach of any provision of this Ordinance or of any regulation shall be guilty of an offence and shall, where no penalty is specially provided by this Ordinance for such offence be liable on conviction to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment.

Penalty for breach of Ordinance or regulation, where no other penalty provided.

45. Every dispute under section 5 or section 39 shall be referred to arbitrators, one to be chosen by each of the interested parties; and the arbitrators shall, before proceeding to decide the matter of the dispute, select an umpire whose decision, in the event of a disagreement between the arbitrators, shall be final;

Determination of disputes under sections 5 and 39.

Provided that where—

- (a) the interested parties do not appoint an arbitrator, or
- (b) the arbitrators do not select an umpire,

the Minister may after such time as he may deem reasonable appoint an arbitrator or an umpire as the case may be.

Informer's
Share of fines
imposed under
the Ordinance.

46. In any case in which any person is sentenced to pay a fine under this Ordinance, the court may direct that any part, not exceeding one-half, of such fine or of so much as shall actually be recovered shall be paid to any person through whose information the conviction has been obtained.

Regulations.

47. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters:—

- (a) the manner in which security shall be furnished by any person to whom a licence under section 6 is issued, and the procedure for enforcing such security;
- (b) the conditions and restrictions (including the payment of a fee) subject to which any licence or permit under this Ordinance may be issued;
- (c) the disposal of antiquities delivered to the Archaeological Commissioner under section 15;
- (d) the matters which shall be considered in assessing the compensation to be paid to claimants under section 25, and any matters which shall not be taken into consideration in assessing such compensation;
- (e) the procedure to be followed before the board in inquiries held under section 27;
- (f) the time within which appeals under section 12 or section 22 or section 38 shall be preferred, and generally all matters incidental to or connected with the hearing and disposal of such appeals;

(g) the conditions and restrictions (including the payment of fees) subject to which members of the public may have access to any ancient monument on State land or any protected monument;

(h) any matters for which regulations may be made under section 24;

(i) the supervision or control of dealers in antiquities, and the issue of licences for the purposes of such supervision or control; and

(j) all matters stated or required by this Ordinance to be prescribed.

(3) Every regulation made by the Minister shall be brought before Parliament by a motion that such regulation shall be approved. No regulation made by the Minister shall have effect until it has been approved by Parliament. Notification of such approval shall be published in the Gazette.

(4) A regulation made by the Minister when approved by Parliament shall, upon the notification of such approval in the Gazette, be as valid and effectual as if it were herein enacted.

PART VIII

INTERPRETATION

48. In this Ordinance, unless the context otherwise requires—

"ancient monument" means any monument lying or being or being found in Sri Lanka which dates or may reasonably be believed to date from a period prior to the 2nd day of March, 1815, and includes—

- (a) any other monument which has been declared to be an ancient monument by an Order published in the Gazette under section 16, and

(b) any tree in respect of which an Order under section 17 has been published in the Gazette;

" antiquity " means—

(a) any ancient monument, or

(b) any of the following objects lying or being or being found in Sri Lanka, which date or may reasonably be believed to date from a period prior to the 2nd day of March, 1815:—

statues, sculptured or dressed stone and marbles of all descriptions, engravings, carvings, inscriptions, paintings, writings, and the material whereon the same appear, all specimens of ceramic, glyptic, metallurgic and textile art, coins, gems, seals, jewels, jewellery, arms, tools, ornaments, and all other objects of art which are movable property;

" Archaeological Commissioner" means the person appointed to be or to act as Archaeological Commissioner and includes any person authorized by the Archaeological Commissioner under section 43 in respect of any power, duty or function of the Archaeological Commissioner under this Ordinance;

" State land" means any land which under any law is deemed or presumed to be the property of the

State or to which the State is lawfully entitled together with all rights, interests and privileges attached or appertaining thereto; and includes any land belonging to the State vested in any local authority;

" monument " means any temple, church, building, monument, or other structure or erection, or any tomb, tumulus or other place of interment, or any other immovable property of a like nature or any part or remains of the same; and includes the site of any monument and such portion of land adjoining such site as may be required for fencing or covering in or otherwise preserving any monument;

" owner ", with reference to any property, movable or immovable, means the person whose title to that property is recognized by any written or other law in force in Sri Lanka;

" peace officer" means a police officer and includes any grama seva niladhari appointed by a Government Agent to perform police duties;

" prescribed" means prescribed by regulation;

" regulation " means a regulation made by the Minister under this Ordinance.

49. Nothing contained in the Lost Property Regulation shall in any manner apply to any antiquity. The Lost property Regulation not to apply to antiquities.

CHAPTER 570

ANIMALS

Acts
Nos. 29 or 1958,
20 of 1964,
10 of 1968.

AN ACT TO REGULATE THE SLAUGHTER OF ANIMALS; TO ENABLE THE RESTRICTION, CONTROL OR REGULATION OF THE REMOVAL OF ANIMALS FROM ONE ADMINISTRATIVE DISTRICT TO ANOTHER; TO MAKE PROVISION FOR THE BRANDING OF ANIMALS AND FOR THE ISSUE OF VOUCHERS IN RESPECT OF ANIMALS WHICH HAVE BEEN BRANDED AND TO REGULATE THE SALE AND TRANSFER OF SUCH ANIMALS; TO PROVIDE FOR THE SEIZURE AND DETENTION OF ANIMALS WHICH COMMIT TRESPASS AND FOR THE ASSESSMENT AND RECOVERY OF DAMAGES FOR SUCH TRESPASS; TO PROVIDE FOR MEASURES FOR THE IMPROVEMENT OF THE BREED OF ANIMALS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Parts I, II, III, IV and VI - 20th August, 1962.]
[Part V not in operation on 31st December, 1980.]

PART I

Short title.

1. (1) This Act may be cited as the Animals Act.

and except in accordance with such regulations as may be in force under this Act relating to the slaughter of cows.

(2) Parts I, II, III, IV and VI shall come into operation on the 20th day of August, 1962, and Part V* of this Act shall come into operation, throughout Sri Lanka or in each such part of Sri Lanka as the Minister may determine by Order published in the Gazette, on such later date* as the Minister may appoint by Order so published.

In this subsection, "appropriate authority" means a Government Veterinary Surgeon, a Veterinary Surgeon employed by any local authority, or any other officer appointed by a local authority to issue certificates under this subsection.

(2) No person shall slaughter, or cause or permit to be slaughtered, any cow-calf.

PART II

SLAUGHTER AND REMOVAL OF ANIMALS

Slaughter of cows and cow-calves prohibited.

2. (1) No person shall slaughter, or cause or permit to be slaughtered, any cow (other than a cow imported for slaughter) unless that cow is certified by the appropriate authority to be—

- (a) not less than twelve years of age, or
- (b) incapable of breeding, or
- (c) unfit to be used for any agricultural purpose,

3. Regulations may be made in respect of all or any of the following matters;— Regulations.

- (1) the prohibition, restriction, control or regulation of the removal of animals from one administrative district to another; [§ 2, 20 of 1964.]
- (2) the conditions subject to which the slaughter of animals may be permitted;
- (3) the stoppage and examination of vehicles in which animals are being transported; and [§ 2, 10 of 1968.]

* Part V not in operation on 31st December, 1980.

[§ 2, 10 of 1968.]

(4) the establishment of checking stations at which any vehicles may be required to stop to enable the officer in charge of such station to examine the vehicle for the purpose of ascertaining whether any animals are being transported in contravention of any regulation made under this Part.

For the purposes of this section " Agricultural Officer " means a Divisional Agricultural Extension Officer or Agricultural Officer (Farm Management and Production).

PART III

BRANDING OF CATTLE

Power of Court to confiscate vehicles. [§3, 10 of 1968.]

3A. Where any person is convicted of an offence under this Part or any regulations made thereunder, any vehicle used in the commission of such offence shall, in addition to any other punishment prescribed for such offence, be liable, by order of the convicting Magistrate, to confiscation :

*5. Every person who has any cattle over the age of eighteen months belonging to him shall, unless brand marks have been made on such cattle in accordance with the regulations in force under the Cattle Ordinance and such brand marks have not become indistinct, cause such cattle to be branded in accordance with such regulations as may be in force under this Act relating to the branding of cattle.

Cattle above age of eighteen months to be branded.

Provided, however, that in any case where the owner of the vehicle is a third party, no order of confiscation shall be made, if the owner proves to the satisfaction of the Court that he has taken all precautions to prevent the use of such vehicle or that the vehicle has been used without his knowledge for the commission of the offence.

6. Every person who has any cattle belonging to him shall furnish, not later than the thirty-first day of January in each year, to the divisional Assistant Government Agent of the divisional Assistant Government Agent's division in which such cattle are kept a return, in such form as may be prescribed, of the description of, and the brand marks on, each head of such cattle :

Return of description and brand marks on cattle to be furnished to the divisional Assistant Government Agent by owners.

Power to compound offences. [§3, 10 of 1968.]

*3B. (1) The Government Agent or the Director or any officer not below the rank of divisional Assistant Government Agent or Agricultural Officer, empowered in that behalf by the Government Agent or the Director, as the case may be, may accept from any person reasonably suspected of having committed any offence under this Part or any regulations made thereunder, any sum of money by way of composition for the offence which may have been committed.

Provided that where this Part of this Act is brought into operation in any divisional Assistant Government Agent's division on any day in any month other than December of any year, a return relating to cattle in that division shall be furnished in respect of that year before the expiry of one month after such day, and that where this Part of this Act is brought into operation in any divisional Assistant Government Agent's division on any day in December of any year, a return relating to cattle in that division shall be furnished in respect of that year before the end of January of the immediately following year.

(2) In any case where a sum of money is accepted under subsection (1), the officer compounding the offence shall forthwith release to the offender any animal in respect of which the offence has been committed or the vehicle used in the commission of the offence, and no further proceedings shall be taken against the offender.

7. Every divisional. Assistant Government Agent shall—

Duty of divisional Assistant Government Agent to maintain a cattle register and to issue cattle vouchers.

(3) Where any offence is compounded under this section, the full facts of the case shall forthwith be reported to the Director.

(a) maintain, in such form as may be prescribed, a register of the description of, and the brand marks on, cattle within his division ; and

(4) All sums of money received under this section shall be credited to the Consolidated Fund.

* Section 4, repealing the Buffaloes Protection Ordinance, is omitted. + Repealed by Act No. 29 of 1958.

(b) issue, or cause to be issued, to the owner of cattle branded in accordance with such regulations as may be in force under this Act relating to the branding of cattle a voucher in the prescribed form in respect of each head of such cattle.

Cattle vouchers.

8. (1) A voucher issued in respect of a head of cattle under the regulations in force under the Cattle Ordinance* shall, unless the brand marks specified in that voucher as those on that head of cattle have become indistinct, be deemed to be in force as if it were a voucher issued under section 7.

(2) Where in any legal proceedings any question arises as to the ownership of any animal, the voucher issued or deemed to be issued under section 7 shall be admissible in evidence and shall be sufficient prima facie evidence of any fact stated therein as to the ownership of that animal.

Power of the divisional Assistant Government Agent to direct owner of an animal to brand with marks to indicate locality.

9. The divisional Assistant Government Agent of any divisional Assistant Government Agent's division may, if he considers it necessary, direct the owner of any animal to have that animal branded, within such time as he may specify, with such other marks as he may require so as to indicate the locality in which that animal is kept and such owner shall carry out such direction.

Appointment of branding officers.

10. There may be appointed for each administrative district such number of branding officers as may be necessary for that district.

Regulations.

11. Regulations may be made in respect of all or any of the following matters :—

(a) all matters stated or required by this Part to be prescribed ;

(b) the procedure to be observed in the branding of cattle;

(c) the imposition and recovery of fees for the branding of cattle and the disposal of such fees;

(d) the procedure to be observed in the sale and transfer of animals which have been branded ; and

(e) all matters necessary for the identification of animals and for the verification of their ownership.

PART IV

TRESPASS BY ANIMALS

13. (1) No person who is the owner, or who is in charge, of any animal shall permit that animal to commit trespass on any private land which is under cultivation, or any irrigation work, aerodrome, saltern, line of railway or land appertaining thereto, public road, public park or State land, other than a jungle or a land set apart for the grazing of animals.

Offence of permitting animals to trespass.

(2) For the purposes of this section and the succeeding sections of this Part, "irrigation work" shall have the same meaning as in the Irrigation Ordinance.

14. It shall be lawful for the owner or occupier of any private land which is under cultivation to seize any animal trespassing on that land and to tie up and detain that animal until—

Power of the owner or occupier of any cultivated private land to seize and detain any animal trespassing on such land.

(a) the full amount of the damages, if any, occasioned by the trespass and assessed in the prescribed manner, and

(b) the fair expenses of maintenance of that animal during detention after seizure,

are paid to him by the owner or the person in charge of that animal or are recovered as hereinafter provided from such owner or person and paid to him.

* Repealed by Act No. 29 of 1958.

f Section 12, repealing the Cattle Ordinance, is omitted.

Power of a Government Agent or a person authorized by him to seize and detain animals trespassing on irrigation works, aerodromes, salterns, lines of railway or land appertaining thereto, public roads, public parks or State lands.

15. (1) It shall be lawful for the Government Agent of any administrative district or any person authorized in that behalf by such Government Agent to seize any animal trespassing, within that district, on any irrigation work, aerodrome, saltern, line of railway or land appertaining thereto, public road, public park or State land, other than a Jungle or a land set apart for the grazing of animals, and to tie up and detain it until—

- (a) the full amount of damages, if any, occasioned by the trespass and assessed in the prescribed manner, and
- (b) the fair expenses of maintenance of that animal during detention after seizure,

are paid to him by the owner or person in charge of that animal, or are recovered as hereinafter provided from such owner or person.

(2) All sums of money received by a Government Agent under subsection (1) shall be credited to the Consolidated Fund.

Persons authorized by a Government Agent to seize trespassing animals to be deemed to be public servants.

16. Every person authorized by a Government Agent to seize, tie up and detain any animal committing such trespass as is referred to in section 15 shall, when acting or purporting to act in pursuance of the provisions of that section, be deemed to be a public servant within the meaning of the Penal Code.

Remuneration of persons authorized by a Government Agent to seize trespassing animals.

17. Every person authorized by a Government Agent to seize, tie up and detain any animal committing such trespass as is referred to in section 15 shall be remunerated at such rates as may be prescribed.

Payment of penalty by the owner or person in charge of an animal which is seized by a person authorized by the Government Agent.

18. (1) Where any animal is seized under section 15 by any person authorized thereto by a Government Agent, the owner or person in charge of that animal shall pay, in addition to the sums referred to in that section, a penalty not exceeding five rupees.

(2) The amount of any penalty referred to in subsection (1) shall, when paid, be credited to the Consolidated Fund.

19. Where any animal trespasses on any private land and the owner or occupier of that land or any other person duly authorized by such owner or occupier is unable to seize, tie up and detain that animal, but is able to prove the trespass by that animal and in whose ownership or charge that animal was at the time of the trespass, the owner or person in charge of that animal shall be liable to pay to the owner or occupier of that land the same damages and expenses as he would be liable to pay under this Part if that animal were seized, tied up and detained.

20. Any person who removes any animal from the lawful custody of any person authorized to seize and detain it under the provisions of this Part shall be guilty of an offence.

21. Any person who without any lawful right—

- (a) drives any animal into or upon any private land in the occupation of, or cultivated by, another person and who does not take steps to prevent that animal from feeding upon or damaging any growing crop or produce of that land ; or
- (b) drives any animal into or upon any irrigation work, aerodrome, saltern, line of railway or land appertaining thereto, public road, public park or State land and who does not take steps to prevent that animal damaging such work, aerodrome, saltern, line of railway or land appertaining thereto, road, park or State land,

shall be guilty of an offence.

22. If it is shown to the satisfaction of the Government Agent of any administrative district that any animal is in the habit of trespassing, within that district, on any private land, or any irrigation work, aerodrome, saltern, line of railway or land appertaining thereto, public road, public park or State land and that such animal cannot be seized or identified, he—

- (a) may authorize any person to seize such animal while so trespassing or to identify it, and

Liability of owner or person in charge of animal committing trespass which cannot be seized.

Interference with seizers of animals.

Driving of animals by persons into private lands, irrigation works, aerodromes, salterns, lines of railway or land appertaining thereto, public roads, public parks or State lands and not taking steps to prevent damage, an offence, [§ 4, 10 of 1968.]

Seizure and shooting of animals which are in the habit of trespassing.

(b) may, if such person finds after reasonable exertion that it is impracticable to seize or identify such animal, in writing permit such person to shoot such animal within such specified area within thirty days after the grant of such permission.

Destruction of Stray pigs or poultry. [§5, 10 of 1968.]

23. (1) It shall be lawful for the owner or occupier of any cultivated private land, or for any person duly authorized by such owner or occupier, to shoot or otherwise destroy any pig or poultry trespassing on such land, if a notice warning the owners of pigs or poultry not to allow such animals to stray on such land is exhibited in a conspicuous place on such land.

[§ 5, 10 of 1968.]

(2) In this section, the terms " poultry " means domestic fowl, turkeys, geese, or ducks.

Disposal of the carcasses of animals which are destroyed.

24. The owner of every animal shot or otherwise destroyed under the provisions of section 22 or section 23 shall be entitled to remove the carcass of the animal, and if no claim to the carcass is made by any person entitled to remove it, the carcass shall be sold by public auction by the grama seva niladhari of the grama seva niladhari's division in which the animal was shot or otherwise destroyed and the proceeds of such sale shall be credited to the Consolidated Fund.

Failure to pay damages, expenses or penalty an offence, and recovery of damages, expenses or penalty.

25. (1) Any person who fails to pay any sum due from him as damages or expenses under section 14 or section 15, or as a penalty under section 18 shall be guilty of an offence and shall be liable to a fine not exceeding twenty rupees.

[§ 6, 10 of 1968.]

(2) On the conviction of any person for an offence under subsection (1), the court shall, if satisfied that payment of any sum due as damages or expenses under section 14 or section 15 or as a penalty under section 18 has not been made, or that such sum cannot be recovered under subsection (3), make order that such sum shall, in addition to any fine that may be imposed on him under subsection (1), be paid by him within the time specified in the order, and, if such sum is not so paid, it shall be recovered

upon an order of the court as if it were a fine imposed by the court.

(3) The court shall have power to order any animal seized under this Part to be sold by public auction, and where any animal is so sold, the proceeds of the sale shall, by order of court, be disposed of in the prescribed manner. [§ 6, 10 of 1968.]

26. Regulations may be made in respect of all or any of the following matters :— Regulations.

(a) all matters stated or required under this Part to be prescribed ;

(b) the giving of notice of the seizure or destruction of any animal causing trespass and the person or persons to whom such notice should be given;

(c) the custody and maintenance of animals seized, in cases where the person seizing the animals is unable to maintain the animals ; [§7. 10 of 1968.]

(d) the production in court of animals seized, the sale of such animals and the disposal of proceeds of sale; and [§ 7, 10 of 1968.]

(e) all matters relating to the seizure and destruction of animals committing trespass.

***26A.** In this Part of this Act,—

Definition of certain terms for the purposes of this Part of this Act. [§8, 10 of 1968.]

(a) " State land " does not include any land which is in the possession or occupation of any person by or under the authority of a permit, grant, or any other instrument by whatsoever name or designation called, issued or made by or on behalf of the State under any written law;

(b) " private land " includes any State land which is in the possession or occupation of any person by or under the authority of a permit, grant, or any other instrument by

Section 27 repealing the Cattle Trespass Ordinance, is omitted.

whatsoever name or designation called, issued or made by or on behalf of the State under any written law;

any animal, a veterinary surgeon or an authorized officer may fix the age of that animal after inspection if the owner thereof is unable to establish the age of that animal.

(c) " owner or occupier ", in relation to any private land, includes any person in possession or occupation of that land by or under the authority of a permit, grant or any other instrument by whatsoever name or designation called, issued or made by or on behalf of the State under any written law. or any other person acting by or under the direction of such owner or occupier.

30. The owner of every animal in respect of which a certificate is issued under section 29 shall attach to the lower hind part of each ear of that animal a metal tag of such pattern as may be approved by the Director.

Tags to be attached to animals in respect of which certificates are issued.

31. A veterinary surgeon or any authorized officer who certifies that any male animal which is unfit for breeding is fit for that purpose shall be guilty of an offence.

Issue of false certificates by veterinary surgeons or authorized officers.

32. A certificate issued under section 29 may be cancelled if the veterinary surgeon or authorized officer by whom such certificate was issued is of the opinion that the animal in respect of which it was issued—

Cancellation of certificates issued by veterinary surgeons or authorized officers.

(a) is no longer fit for breeding by reason of senility or other infirmity, or

(b) is suffering from any contagious or infectious disease.

33. (1) Where any veterinary surgeon or authorized officer is of the opinion that any male animal over the age of one year is unfit for breeding, that veterinary surgeon or authorized officer may direct the owner of, or the person in possession of, that animal by notice in writing addressed to such owner or person, to castrate that animal, and such owner or person shall carry out such direction.

Power of veterinary surgeon or authorized officer to order the castration of any animal which is unfit for breeding.

(2) The castration of any male animal in pursuance of a notice issued under subsection (1) may—

(a) at the request of the owner or person in charge of that animal be performed, or cause to be performed, free of any charge by the veterinary surgeon or authorized officer who issued that notice, or

(b) at the expense of such owner or person be performed by any other person to the satisfaction of the veterinary surgeon or authorized officer who issued that notice.

PART V

CASTRATION AND BREEDING

Prohibition of the possession of certain male animals.

28. No person shall have in his possession any male animal over the age of one year and three months unless such animal—

(a) has been castrated within three months after attaining the age of one year; or

(b) has been certified by a veterinary surgeon or an authorized officer to be fit for breeding.

Issue of certificates by veterinary surgeons or authorized officers.

29. (1) A veterinary surgeon or an authorized officer shall, upon a request made by the owner of any male animal above the age of one year or by any other person on behalf of such owner, if he is satisfied that such animal is fit for breeding, issue to such owner or other person a certificate to the effect that the animal is fit for breeding.

(2) A certificate issued under subsection (1) shall contain the prescribed particulars relating to the identity and the description of the animal in respect of which the certificate is issued.

(3) Every person in possession of a certificate issued under subsection (1) shall upon demand made therefor by any veterinary surgeon or authorized officer produce the certificate for inspection.

(4) For the purposes of the certificate to be issued under subsection (1) in respect of

Regulations. **34.** Regulations may be made in respect of all or any of the following matters:—

- (a) all matters stated or required under this Part to be prescribed ;
- (b) a scheme for the grading of animals and the use by the public of the stud and artificial insemination services provided by the Government.

PART VI

GENERAL

Power of Minister to make regulations.

35. (1) The Minister may make regulations for all matters for which regulations are required or authorized to be made under this Act.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on such date as may be specified in the regulation or, if no such date is so specified, on the date of such publication.

(3) Every regulation made by the Minister shall be brought before Parliament as soon as may be after the publication thereof by a motion that such regulation be approved.

(4) Any regulation which Parliament refuses to approve shall be deemed to be rescinded, but without prejudice to the validity of anything previously done thereunder. The date on which a regulation shall be deemed to be so rescinded shall be the date on which Parliament refuses to approve such regulation.

(5) Notification of the date on which any regulation made by the Minister is deemed to be rescinded shall be published in the Gazette.

Contraventions of the provisions of the Act or regulations made thereunder.

36. Any person who contravenes any provisions of this Act or of any regulation made under this Act shall be guilty of an offence.

* Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

***37.** Any person who commits an offence under this Act shall, where no punishment is expressly provided for such offence, be liable to a fine not exceeding fifty rupees or to simple imprisonment for a term not exceeding one month, and for a second or subsequent offence to a fine not exceeding one hundred rupees or to simple imprisonment for a term not exceeding two months.

General penalty.

37A. (1) Any offence under this Act committed by reason of a contravention of any of the provisions of Part IV of this Act, or of any regulation made under this Act in respect of any matter for which such regulation is authorized to be made by that Part, shall,—

Special provision regarding Jurisdiction to try certain offences, [§ 9, 10 of 1968.]

(a) if there is a Primary Court having jurisdiction over the place at which such offence was committed, be triable by that Court; or

(b) if there is no Primary Court be summarily triable by the Magistrate's Court having jurisdiction over the place at which such offence was committed.

(2) Any Primary Court trying an offence under this Act shall be deemed to have power to inflict the full penalty provided for that offence notwithstanding any limitation of its ordinary powers of jurisdiction.

38. In this Act unless the context otherwise requires—

Interpretation.

" animal" means an ox or a buffalo and in Part IV includes a sheep, goat or pig or poultry;

[§ 10. 10 of 1968.]

" authorized officer" means any officer generally or specially authorized in writing by the Director;

" brand" includes ear-tagging or ear tattooing and the marking of distinguishing letters or numbers with chemicals•

" Director" means the Director of Agriculture or any Deputy Director of Agriculture;

ANIMALS

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"local authority" includes any Municipal Council, Urban Council, Town Council or Village Council; and

"veterinary surgeon" means a qualified veterinary surgeon recognized as such for the purposes of this Act by the Director by notice published in the Gazette.

CHAPTER 625

ARMY

AN ACT TO PROVIDE FOR THE RAISING AND MAINTENANCE OF AN ARMY AND FOR MATTERS CONNECTED THEREWITH.

Acts
Nos.17 of 1949,
6 of 1962,
32 of 1962,
22 of 1964,
22 of 1971.

[20th October, 1949.]

Short title. **1.** This Act may be cited as the Army Act.

shall, during the period of such service or training, be deemed for all purposes to be officers and soldiers of the Regular Force.

PART I

ORGANIZATION OF THE ARMY

The Army. **2.** (1) There shall be raised and maintained, in accordance with the provisions of this Act and of the regulations made thereunder, an army not exceeding such strength as may, from time to time, be determined by Parliament.

4. The Regular Reserve shall consist of officers who by order of the President are transferred to such reserve from the Regular Force and soldiers who are transferred to such reserve from the Regular Force in accordance with the terms of their enlistment. Regular Reserve.

- (2) The army shall consist of—
- (a) a Regular Force,
- (b) a Regular Reserve, and
- (c) such Volunteer Force and Volunteer Reserve as may be constituted under sections 5 and 6.

5. (1) There may be raised and maintained, in accordance with the provisions of this Act and of the regulations made thereunder, a force of volunteers for the purpose of rendering service under this Act. Volunteer Force.

Regular Force. **3.** (1) The Regular Force shall consist of officers and soldiers who are appointed or enlisted for the purpose of rendering continuous service under this Act during the period of their engagement.

(2) The force of volunteers raised and maintained under this Act shall be called the Volunteer Force.

(2) The Regular Force shall be organized into such corps as may, from time to time, be determined by the President.

(3) The Volunteer Force shall be organized into such corps as may, from time to time, be determined by the President.

(3) Where the whole or any part of the Regular Reserve, Volunteer Force, or Volunteer Reserve is called out, as hereinafter provided, on active service or for military training, the officers and soldiers of such reserve, force, or part so called out

6. There may be organized and maintained a Volunteer Reserve consisting of such officers and soldiers of the Volunteer Force or of any other unit of the army as are transferred to such reserve by order of the President.. Volunteer Reserve.

7. The whole or any part of the Regular Reserve, Volunteer Force, or Volunteer Reserve may by order of the President be called out for military training with the whole or any part of the Regular Force during any period specified in such order. Training.

Commander of the Army.

8. (1) The President shall appoint a fit and proper person to command the army.

(2) The person appointed under subsection (1) of this section shall be designated Commander of the Army.

PART II

OFFICERS

Appointment of officers,

9. (1) The officers shall be appointed by commissions under the hand of the President.

(2) Every officer shall upon appointment take and subscribe the prescribed oath, or make and subscribe the prescribed affirmation, before a prescribed officer.

(3) No commission issued by the President under subsection (1) of this section shall become invalid by reason of his death or vacation of office.

Duration of appointments.

10. Every officer shall hold his appointment during the President's pleasure.

Resignation.

11. (1) An officer of the Regular Force or Regular Reserve shall not have the right to resign his commission, but may be allowed by the President to do so.

(2) An officer of the Regular Force or Regular Reserve who tenders the resignation of his commission to the President shall not be relieved of the duties of his appointment until the acceptance of the resignation is notified in the Gazette.

(3) Where an officer of the Volunteer Force or Volunteer Reserve desires to resign his commission on any date, he shall, not less than three months before that date, give the President written notice that he will be resigning his commission on that date.

(4) Where an officer of the Volunteer Force or Volunteer Reserve has, in accordance with subsection (3) of this section, given notice of resignation of his commission, he shall, upon his returning to the prescribed officer in good order (fair wear and tear only excepted) all such arms,

clothing and appointments in his possession as are the property of the army, be entitled to resign his commission—

(a) if he is not on active service, on the date of resignation specified in such notice, or

(b) if he is on active service, immediately after the termination of such service.

12. The promotion and transfer of officers and the grant of leave of absence to them shall be in accordance with such regulations as may be made in that behalf.

Promotion, transfer, and leave.

PART III

SOLDIERS

13. (1) The enlistment of persons as soldiers shall be in accordance with the regulations made in that behalf and shall be conducted by recruiting officers appointed by the President.

Enlistment.

(2) Every person selected for enlistment as a soldier shall appear before a prescribed officer, sign an attestation paper containing the terms of his enlistment, and take and subscribe the prescribed oath or make and subscribe the prescribed affirmation.

(3) The attestation paper referred to in subsection (2) of this section shall be in the prescribed form.

14. (1) Subject to the provisions of section 20, the enlistment of a person as a soldier of the Regular Force shall—

Original enlistment, and re-engagement.

(a) be for the prescribed period which shall be called the period of original enlistment, and

(b) be entirely for service in such force or partly for such service and partly for service in the Regular Reserve.

(2) A soldier may, before the expiry of the period of his original enlistment, be re-engaged for a further period of military service not exceeding the prescribed maximum period of re-engagement.

Reckoning and forfeiture of service.

15. (1) Subject to the provisions of subsection (2) of this section, the service of a soldier of the Regular Force for the purpose of discharge or of transfer to the Regular Reserve shall be reckoned from the date of his signing the attestation paper.

(2) Where a soldier has been guilty of the military offence of desertion or of fraudulent enlistment, then either upon his conviction by a court martial of such offence, or (if, having confessed such offence, he is liable to be tried by a court martial) upon his trial by a court martial being dispensed with by order under section 149, the whole of his prior service shall be forfeited, and he shall be liable to serve as a soldier for the period of his original enlistment, reckoned from the date of such conviction or such order dispensing with trial, in like manner as if he had been enlisted on that date :

Provided that all or any part of the service of a soldier forfeited under this subsection may, in accordance with such regulations as may be made in that behalf, be restored to him if he performs good and faithful service or is otherwise deemed to merit the restoration of such service.

Promotion, transfer, discharge, &c.

16. (1) The promotion, transfer, discharge, and dismissal of soldiers, and the grant of leave of absence to them shall be in accordance with the regulations made in that behalf.

(2) Where a soldier of the Volunteer Force or Volunteer Reserve desires to obtain his discharge from such force or reserve on any date before the expiry of the period for which he has volunteered to serve in such force or reserve, he shall, not less than three months before such date, make a written request to his commanding officer for such discharge ; and, if he makes such request, he shall, subject to the provisions of section 20, be entitled to be discharged from such force or reserve on such date, upon his returning to the prescribed officer in good order (fair wear and tear only excepted) all such arms, clothing and appointments in his possession as are the property of the army.

Reduction to rank of private.

17. A non-commissioned officer sentenced by a court martial to field

punishment, imprisonment, or detention shall be deemed to be reduced to the rank of private.

PART IV

SERVICE

18. The Regular Force shall at all times be liable to be employed on active service. Employment of Regular Force.

19. (1) Subject to the provisions of subsection (2) of this section, the President may— Employment of Regular Reserve, Volunteer Force, and Volunteer Reserve.

- (a) for the defence of Sri Lanka in time of war, or
- (b) for the prevention or suppression of any rebellion, insurrection or other civil disturbance in Sri Lanka, or
- (c) for the performance of such duties as are referred to in section 23,

by Proclamation or, where the circumstances render it impossible to issue a Proclamation, by order call out on active service the whole or any part of all or any of the following units of the army:—

- Regular Reserve;
- Volunteer Force;
- Volunteer Reserve.

(2) No member of the Volunteer Force or Volunteer Reserve shall, for the purpose mentioned in paragraph (c) of subsection (1) of this section, be called out on active service unless the Regular Force and the Regular Reserve are considered by the President to be inadequate for that purpose.

(3) If Parliament is sitting at the date of issue of a Proclamation or an order under subsection (1) of this section, the President shall forthwith communicate to Parliament the reason for issuing the Proclamation or order. If Parliament is not then sitting the President shall summon Parliament to meet as soon as possible but not later than thirty days after the aforesaid date, and shall, at the first sitting of Parliament after it is summoned, communicate the aforesaid reason.

(4) All officers and soldiers of any such part of the army as is called out on active service under subsection (1) of this section shall be deemed to be on such service until the President terminates such service by Proclamation.

Prolongation of service in the army.

20. Where the time at which a soldier is entitled to be discharged from the army occurs during the period when the whole or any part of the army is on active service, the President may by order prolong the service of that soldier in the army for such period.

Relations between military and naval and air forces of Sri Lanka acting together.

21. (1) Where an officer or a petty or non-commissioned officer of any naval or air force of Sri Lanka is attached to, or is a member of any naval or air force of Sri Lanka which is acting with, any part of the army under such conditions as may be prescribed, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, he shall, in relation to that part of the army, be treated as, and have all the powers (other than the powers of punishment) vested in, an officer or a non-commissioned officer of the army as the case may be.

(2) Where an officer or a soldier of the army is attached to, or is a member of any part of the army acting with, any naval or air force of Sri Lanka under such conditions as may be prescribed, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, the officers and the petty or non-commissioned officers of such force shall, in relation to him, be treated as, and have all the powers (other than the powers of punishment) vested in, officers or non-commissioned officers of the army as the case may be.

Co-operation with foreign military force.

22. (1) In time of war, if the whole or any part of the army is required to act in co-operation with any foreign military force in defence of Sri Lanka the President may place the army or such part thereof under the command of the officer commanding such foreign force if that officer is senior in rank to all the officers of the army or of such part thereof.

(2) Where any officer, warrant officer, or non-commissioned officer is acting in

co-operation with any foreign military force in defence of Sri Lanka, the President may, in agreement with the commander of such force, define the powers of command and the order of precedence of such officer, warrant officer, or non-commissioned officer in relation to a member of such force who is of the same or similar rank.

23. (1) If at any time it appears to the President that any persons have taken or are threatening immediately to take any action of such a nature and on such a scale as to be calculated to deprive the people of Sri Lanka, or a substantial portion of them, of the essentials of life by interfering with the supply and distribution of food, water, fuel, or light, or with the means of transport and communication, the President may order all or any of the members of the Regular Force, and such members of any other unit of the army as are called out on active service under section 19 for the purpose mentioned in paragraph (c) of subsection (1) of that section, to perform such duties of a non-military nature as he may consider necessary for the maintenance of supplies and services essential to the life of the community.

Performance of non-military duties.

(2) Every officer or soldier of the army shall perform such duties as may be imposed on him by order of the President under subsection (1) of this section.

23A. (1) The President may order all or any of the members of the army to perform such non-military duties as he may consider necessary in the national interest.

Performance of certain other duties by members of the Army, [§2.6 of 1962.]

(2) The President may order any member of the army to perform escort and guard duties in respect of persons suspected, accused, or convicted of any offence against the State under Chapter VI of the Penal Code.

(3) Every member of the army shall perform such duties as may be imposed on him by Order of the President under subsection (1).

(4) Wherever an Order is made under subsection (1) calling upon any officer of the army to perform civilian administrative duties and wherever an Order is made under

subsection (2) the President shall communicate to Parliament such Order in the same manner as under the Public Security Ordinance in the case of a declaration of a state of emergency,

PART V

PAY, ALLOWANCES, PENSIONS AND GRATUITIES

24. Every member of the Regular Force and every officer or soldier not belonging to the Regular Force who is on active service shall be entitled to such pay and allowances, and to be quartered in such manner, as may be prescribed.

Emoluments of members of the Regular Force and of other members of the army who are on active service.

25. Such of the officers and soldiers as are not members of the Regular Force and are not on active service shall be entitled to such equipment allowance or other allowance as may be prescribed.

Allowances of officers and soldiers who are not members of the Regular Force and are not on active service.

26. (1) No penal deduction, other than a penal deduction authorized by this Act, shall be made from the pay or allowance of any officer or soldier.

Making and remission of deductions.

(2) Any sum authorized by this Act to be deducted from the pay of any officer or soldier may be deducted from his pay or from any sums due to him.

(3) Any deduction authorized by this Act to be made from the pay of any officer or soldier may be remitted in such circumstances and in such manner as may be prescribed.

27. The following penal deductions may be made from the pay or allowance due to an officer:—

Penal deductions from the pay due to an officer. [§ 2, 32 of 1962.]

(a) all pay in respect of any period during which he is absent without leave, unless an explanation has been given by him through his commanding officer and has been accepted as satisfactory by the Commander of the Army;

(aa) in respect of each month of any period during which he is suspended from the exercise of his

[§ 2, 32 of 1962.]

office, a part of his pay and allowances for that month as may be prescribed;

(b) the sum awarded by the court martial by which he is convicted of any offence as the compensation payable by him for any expense, loss, damage or destruction occasioned by the commission of the offence ;

(c) the sum required to make good the pay of any other officer or of any soldier which he has unlawfully retained or unlawfully refused to pay;

(d) the sum required to make good such loss, damage, or destruction of public or army property as, after due investigation, appears to the Commander of the Army to have been occasioned by any wrongful act or negligence of the officer;

(e) any sum which he has been ordered by a civil court to pay for the maintenance of his wife or of his legitimate or illegitimate child or children and which he has himself not paid.

28. (1) The following penal deductions may be made from the pay or allowance due to a soldier:—

Penal deductions from the pay due to a soldier. [§ 3, 32 of 1962.]

(a) all pay for every day of absence either on desertion or without leave, or as a prisoner of war if taken prisoner through his neglect or misconduct; for every day of imprisonment to which he is sentenced by a court martial or civil court, or, if he is on board a ship of the Republic, by the commanding officer of that ship ; for every day of detention to which he is sentenced, or for every day in respect of which field punishment is imposed on him, by a court martial or by his commanding officer; and for every day whilst he is in military custody on a charge for an offence of which he is afterwards convicted by a court martial or a civil court, or on

a charge of absence without leave for which he is afterwards sentenced to detention or subjected to field punishment by his commanding officer;

[§ 3, 32 of 1962.]

- (ad) in respect of each month of any period during which he is suspended from his duties, a part of his pay and allowances for that month as may be prescribed ;
- (b) all pay for every day on which he is in hospital on account of illness certified by the medical officer attending on him at the hospital to have been caused by an offence committed by him;
- (c) such sum payable by him by way of compensation for any expense, loss, damage, or destruction occasioned by the commission of any offence as may be determined by the court martial by which he is convicted of that offence or by the authority dealing summarily, under section 43, with the charge against him in respect of that offence, or, if he is on board a ship of the Republic, by the commanding officer of that ship, or, where he has confessed the offence and his trial is dispensed with by order under section 149, by that order or by any other order of a competent military authority under that section;
- (d) such sum payable by him by way of compensation for any expense caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, regimental necessaries, or military decorations, or to any buildings or other property, as may be determined by his commanding officer, or by the authority dealing summarily, under section 43 with a charge against him, or, where he elects to be tried by a court martial, by that court martial, or, if he is on board a ship of the Republic by the commanding officer of that ship ;

- (e) the share which he, as a member of a unit of the army, is required to contribute towards compensation for any barrack damage which, after due investigation held in the prescribed manner, appears to have been caused by the wilful act or negligence of any unidentifiable person or persons belonging to such unit, during the period while such unit was in occupation of the barracks;
- (f) the sum required to pay any fine imposed by a court martial or his commanding officer; or any fine, penalty, damages, compensation, or costs which a civil court before which he has been charged with an offence has ordered him to pay; and
- (g) any sum which he has been ordered by a civil court to pay for the maintenance of his wife or of his legitimate or illegitimate child or children and which he has himself not paid;

Provided that—

- (i) the total amount of such deductions authorized by this subsection as are made from the pay due to a soldier shall not exceed such sum as will leave to him, after paying for his messing and washing, less than ten cents a day, and
 - (ii) where a soldier who is sentenced in respect of an offence on active service to forfeit all pay is liable to any other penal deductions from pay, the sentence shall apply only to so much of his pay as remains after those deductions have been made.
- (2) For the purposes of paragraph (e) of subsection (1) of this section—

" barrack damage " means damage to or loss or destruction of any premises in which soldiers are quartered or billeted, or any appurtenances, fixtures, furniture or effects therein or appertaining thereto, and

" unit" includes any part of a unit.

Pensions and gratuities.

29. Any officer or soldier, or the widow or any child or other dependant of any officer or soldier, may be paid a pension or gratuity in such circumstances and at such rates as may be prescribed.

matter, he may make a written appeal to the President. An order made by the President on any such appeal shall be final.

Assignment, seizure, or sequestration of pay, allowance, pension or gratuity.

30. (1) Every assignment of and every charge on, and every agreement to assign or charge, any pay or allowance payable to any officer or soldier, or any pension or gratuity payable to any officer or soldier or to the widow or any child or other dependant of any officer or soldier, shall be void unless it is approved by the President or any person thereto authorized by the President.

33. (1) Where a soldier is aggrieved by any action of an officer other than the commanding officer of the corps to which he is attached or by any action of any other soldier, he may make a written appeal for redress to such commanding officer, and where he is aggrieved by any action of such commanding officer, either in respect of his appeal or in respect of any other matter, he may make a written appeal to the Commander of the Army.

Grievances of soldiers.

(2) No pay or allowance payable to any officer or soldier, and no pension or gratuity payable to any officer or soldier or to the widow or any child or other dependant of any officer or soldier, nor any part thereof, shall be seized or sequestered under any writ or order issued or made by any civil court.

(2) Each officer to whom an appeal is made under subsection (1) of this section shall inquire into the appeal, and, if satisfied that the appeal should be allowed, shall grant redress to the appellant. An order made by the Commander of the Army on any appeal made to him under that subsection shall be final.

Maintenance of wife and children.

31. Where a civil court enters a decree or makes an order against a person, who is or subsequently becomes an officer or a soldier, for the payment of any sum as cost of maintenance of his wife or of his legitimate or illegitimate child or children, the Commander of the Army may, if a duly certified copy of such decree or order is sent to him, cause to be deducted from the pay of the officer or soldier and to be appropriated towards the payment of that sum such portion of the pay of the officer or soldier as the Commander of the Army may determine, so however that there shall be left to the officer or soldier not less than one-third of his pay.

PART VII

PERSONS SUBJECT TO MILITARY LAW

34. For the purposes of this Act, " person subject to military law " means a person who belongs to any of the following classes of persons :—

Meaning of " person subject to military law"

- (a) all officers and soldiers of the Regular Force;
- (b) all such officers and soldiers of the Regular Reserve, Volunteer Force, or Volunteer Reserve, as are deemed to be officers and soldiers of the Regular Force under subsection (3) of section 3.

PART VI

REDRESS OF GRIEVANCES

Grievances of officers.

32. Where an officer is aggrieved by any action of, and is unsuccessful in obtaining redress from, his commanding officer, he may make a written appeal for redress to the Commander of the Army, and where he is aggrieved by any action of the Commander of the Army, either in respect of his appeal or in respect of any other

35. A person subject to military law who commits any military or civil offence may be taken into military custody.

Persons liable to military custody.

36. (1) A senior officer may order into military custody a junior officer who, being a person subject to military law, commits any military or civil offence, and a junior officer may order into military custody a senior officer who, being a person subject to military law, is engaged in a quarrel, affray or disorder.

Persons who may order military custody.

(2) Any officer or non-commissioned officer may order into military custody any soldier who, being a person subject to military law, commits any military or civil offence.

(3) An order under subsection (1) or subsection (2) of this section shall be obeyed notwithstanding that the person giving the order and the person in respect of whom the order is given do not belong to the same corps.

Custodians.

37. Any officer or soldier ordered into military custody shall be committed to the custody of a provost marshal or an assistant provost marshal or of the commander of a guard. The person to whose custody any officer or soldier is committed under this section shall not refuse to receive or keep him.

Statement of offence.

38. The person ordering any officer or soldier into military custody shall, within twenty-four hours of the committal of that officer or soldier to such custody, deliver to the person to whose custody that officer or soldier is committed a written and signed statement of the offence with which that officer or soldier is charged.

Military custody of officer or soldier not on active service.

39. Where any officer or soldier not on active service is kept in military custody for a longer period than seven days without trial, his commanding officer shall submit weekly to the officer to whom application would be made to convene a court martial if the person in military custody were to be tried by a court martial, a written report on the necessity for such custody, until he is brought to trial or is released from such custody.

Commanding officer's powers in regard to an accused.

40. (1) Where a person subject to military law is taken into military custody, the commanding officer of that person shall without unnecessary delay investigate the charge on which that person is in such custody, and—

- (a) if he in his discretion decides that it should not be proceeded with, shall dismiss the charge, and

(b) if he in his discretion decides that the charge should be proceeded with, shall—

- (i) take steps for the trial of that person by a court martial, or
- (ii) where that person is an officer of a rank below that of lieutenant-colonel or is a warrant officer, refer the case to be dealt with summarily by the Commander of the Army or by such officer not below the rank of colonel as may thereto be authorized by the Commander of the Army, or
- (iii) where that person is a soldier other than a warrant officer, deal with the case summarily.

(2) Subject to the provisions of subsection (3) of this section, where a soldier, other than a warrant officer or non-commissioned officer, is charged with the offence of drunkenness, his commanding officer shall deal with the case summarily unless the offence was committed by him while on active service or on duty, or after he was warned for duty, or unless by reason of the drunkenness he was found unfit for duty, or unless he has been guilty of the offence of drunkenness on four or more occasions in the preceding twelve months.

(3) Where a commanding officer has power to deal with an accused soldier summarily under this section, and, after hearing the evidence, considers that he may so deal with the accused, he shall, if the sentence on the conviction of the accused will involve forfeiture of pay or will not consist only of a minor punishment which a commanding officer is authorized to inflict by regulations made in that behalf, ask the accused whether he desires to be dealt with summarily or to be tried by a district court martial, and he shall, if the accused elects to be tried by a district court martial, take steps for the trial of the accused by a district court martial, or, if the accused does not so elect, proceed to deal with the accused summarily.

Delegation of commanding officer's power to deal summarily with an accused soldier.

41. A commanding officer may, in accordance with such regulations as may be made in that behalf, delegate to an officer under his command the power of dealing summarily with an accused soldier under section 40.

(b) where the accused is a warrant officer, inflict on him all or any of the following punishments :—

- (i) forfeiture of seniority of rank;
- (ii) a severe reprimand or a reprimand;
- (iii) such deduction from his pay as is authorized by this Act.

PART VIII

SUMMARY TRIAL

Summary trial of accused who is an officer of a rank below that of lieutenant-colonel or is a warrant officer.

42. Where a person subject to military law who is an officer of a rank below that of lieutenant-colonel or is a warrant officer is charged with any offence and the case is referred under section 40 to be dealt with summarily by the authority mentioned in paragraph (b) (ii) of subsection (1) of that section, such authority may—

43. Where a commanding officer deals summarily with a case in which a soldier (not being a warrant officer) under his command is charged with the commission of any offence, he shall, after hearing the evidence, acquit the accused if he finds the accused not guilty, or convict the accused if he finds the accused guilty, and after conviction of the accused may—

Summary trial of accused who is a soldier other than a warrant officer.

- (a) whether before or after hearing the evidence dismiss the charge, if he decides in his discretion that it should not be proceeded with ; or
- (b) after hearing the evidence—
 - (i) acquit the accused, if he finds the accused not guilty ; or
 - (ii) convict the accused, if he finds the accused guilty.

- (a) order him to be placed under detention for any period not exceeding twenty-eight days; or
- (b) if the offence is drunkenness, order him to pay a fine not exceeding twenty rupees, either in addition to or without any other punishment; or
- (c) in addition to or without any other punishment order him to suffer any such deduction from his pay as is authorized by this Act to be made by the commanding officer; or

In the event of the accused being convicted, such authority may—

- (a) where the accused is an officer of a rank below that of lieutenant-colonel, inflict on him all or any of the following punishments :—
 - (i) forfeiture of seniority of rank either in the army or in the corps to which the accused belongs or in both, or, if the accused's promotion in the army depends on length of service, forfeiture of all or any part of his service for the purposes of such promotion;
 - (ii) a severe reprimand or a reprimand; and

- (d) where he is not a non-commissioned officer and the offence has been committed by him while on active service, subject him to field punishment for a period not exceeding twenty-eight days in accordance with such regulations relating to field punishment as may be made, and, in addition to or without any other punishment, order him to forfeit all pay for a period commencing on the day of the order and not exceeding twenty-eight days; or
- (e) in addition to or without any other punishment, subject him to such minor punishment as the

commanding officer is authorized to inflict by regulations made in that behalf, so however that a minor punishment shall not be inflicted for any offence for which detention exceeding seven days is ordered.

Manner of taking evidence at summary trial.

44. Where a commanding officer has power to deal with a case summarily, the accused may demand that the evidence against him shall be taken on oath or affirmation, and if the accused so demands, the same oath or affirmation as that required to be taken by witnesses before a court martial shall be administered by the commanding officer to each witness in such case.

PART IX

COURTS MARTIAL

Three kinds of courts martial.

45. A court martial may be—

- (a) a general court martial, or
- (b) a field general court martial, or
- (c) a district court martial.

General court martial.

46. (1) A general court martial may be convened by the President or such officer of a rank not below that of field officer as may be authorized by the President.

(2) A general court martial shall—

- (a) where it is convened to try a person subject to military law for the offence of treason, murder or rape, consist of not less than five officers, and
- (b) where it is convened to try a person subject to military law for any other offence, consist of three officers. -

(3) An officer of a rank below that of captain shall not be a member of a general court martial for the trial of a field officer.

(4) The president of a general court martial shall be appointed by the authority convening such court martial, and

shall not be that authority or an officer of a rank below that of field officer :

Provided, however, that where such authority in his order convening such court martial certifies that a field officer is not available owing to the exigencies of the service, he may appoint an officer of a rank not below that of captain as the president of such court martial.

47. (1) A general court martial may try any person subject to military law who is charged with any military or civil offence:

Jurisdiction of general court martial.

Provided, however, that a general court martial shall not try a person subject to military law for the offence of treason, murder, or rape committed in Sri Lanka, or in any place in the Commonwealth outside Sri Lanka, unless such person was on active service at the time he committed such offence.

(2) A general court martial may inflict any punishment authorized by this Act, and may—

- (a) in the case of a warrant officer inflict, either in addition to or without any other punishment, any punishment which under the proviso to subsection (2) of section 51 a district court martial may inflict, and
- (b) in the case of a non-commissioned officer, order, either in addition to or without any other punishment, forfeiture of seniority of rank or reduction to rank of private :

Provided, however, that a general court martial shall not pass sentence of death on any person without the concurrence of at least two-thirds of the members thereof.

48. (1) Where only a part of the army is on active service or is in any country outside Sri Lanka, and it is impracticable, in the opinion of the commanding officer thereof, to convene a general court martial, such commanding officer may convene a field general court martial.

Field general court martial.

(2) A field general court martial shall consist of not less than three officers:

Provided, however, that, where the officer convening a field general court martial certifies that three officers are not available owing to the exigencies of the service, such court martial may consist of two officers.

(3) The officer convening a field general court martial may be the president of such court martial, but he shall, whenever he deems it practicable, appoint another officer as president, who may be of any rank, but shall, if practicable in the opinion of the first-mentioned officer, be of a rank not below that of captain.

Jurisdiction of field general court martial.

49. (1) A field general court martial may try—

- (a) any person subject to military law who, while on active service and under the command of the officer empowered by section 48 to convene such court martial, is charged with any military or civil offence, and
- (b) any person subject to military law who, while in any foreign country and under the command of such officer, is charged with any offence against the property or person of any inhabitant or resident of that country.

(2) A field general court martial may inflict any punishment which a general court martial is empowered to inflict;

Provided, however, that—

- (a) where a field general court martial consists of less than three officers, such court martial shall not have the power to inflict any punishment more severe than imprisonment or field punishment allowed by this Act, and
- (b) a field general court martial shall not pass sentence of death on any person without the concurrence of all the members thereof.

50. (1) A district court martial may be convened by any person empowered to convene a general court martial or by such officer of a rank not below that of captain as may be authorized by such person, and shall consist of not less than three officers.

District court martial.

(2) The president of a district court martial shall be appointed by the officer convening such court martial and shall not be that officer or an officer of a rank below that of field officer;

Provided, however, that—

- (a) where the officer convening a district court martial is of a rank below that of field officer or where in his order convening such court martial he certifies that a field officer is not available having due regard to the exigencies of the service, an officer of a rank not below that of captain may be the president of such court martial, and
- (b) where, in his order convening such court martial, the first-mentioned officer certifies that a captain is not available owing to the exigencies of the service and where the accused who is to be tried by such court martial is not a warrant officer, an officer of a rank below that of captain may be the president of such court martial.

51. (1) Subject to the same restrictions as are imposed on a general court martial by the proviso to subsection (1) of section 47, a district court martial may try any person subject to military law who is charged with any military or civil offence other than the offence of murder and who is not an officer.

Jurisdiction of district court martial.

(2) A district court martial may inflict any punishment, other than the punishment of death, which a general court martial is empowered by this Act to inflict:

Provided, however, that a district court martial shall not sentence a warrant officer to any punishment other than the following:—

- (a) a severe reprimand or a reprimand ;
- (b) forfeiture of seniority of rank;
- (c) such deduction from his pay as is authorized by this Act; and

(d) either in addition to or without any of the aforementioned punishments, dismissal from the army, or, if he was originally enlisted as a private but not otherwise reduction to the rank of private.

Courts martial in general.

52. (1) The members of a court martial may be officers of the same corps or of different corps or may be unattached to any corps.

(2) On a court martial, other than a field general court martial, convened for the trial of an accused, the following shall not sit or be qualified to sit:—

- (a) the prosecutor;
- (b) any witness for the prosecution ;
- (c) the commanding officer of the accused;
- (d) the officer who investigated the charge on which the accused is arraigned.

Appointment of Judge-Advocate.

53. (1) The authority convening a general court martial shall, and the authority convening a district court martial may, appoint a person, who has sufficient knowledge of the practice and procedure of courts martial and of the general principles of law and of the rules of evidence, to act as Judge-Advocate at the court martial.

(2) A person who, under subsection (2) of section 52, is disqualified from sitting on a court martial shall not be appointed as Judge-Advocate at that court martial.

Powers and duties of Judge-Advocate.

54. The powers and duties of the officer appointed to be the Judge-Advocate at a court martial shall be as follows :—

- (a) It shall be his duty, whether before or during the proceedings, to give advice on questions of law or procedure relating to the charge or trial to the prosecutor and to the accused, who are hereby declared to be entitled to obtain such advice at any time after his appointment:

Provided that during the proceedings he shall give such

advice with the prior permission of the court martial.

- (b) It shall be his duty to invite the attention of the court martial to any irregularity in the proceedings. Whether or not he is consulted, he shall inform the court martial and the authority convening the court martial of any defect in the charge or in the constitution of the court martial, and shall give his advice on any matter before the court martial.

- (c) He shall take all such action as may be necessary to ensure that the accused does not suffer any disadvantage in consequence of any incapacity to examine or cross-examine witnesses or to give evidence clearly, and may for that purpose, with the permission of the court martial, question any witness on any relevant matter.

- (d) At the conclusion of the case he shall, unless both he and the court martial consider it unnecessary, sum up the evidence and advise the court martial upon the law relating to the case before the court martial proceeds to deliberate upon its finding.

55. (1) Every member of a court martial and the Judge-Advocate, if any, shall take the prescribed oath or make the prescribed affirmation before the commencement of the trial of a case.

Oath or affirmation.

(2) Every witness before a court martial shall take the prescribed oath or make the prescribed affirmation before commencing his evidence.

56. Where three years have elapsed after the commission of any offence by any person subject to military law, he shall not be tried by a court martial for that offence unless it is the offence of mutiny, desertion, or fraudulent enlistment.

Time-limit.

57. (1) Where a person subject to military law commits any offence and thereafter ceases to be a person subject to military law, he may be taken into and kept

Trial of offenders who have ceased to be subject to military law.

in military custody and be tried and punished for that offence by a court martial:

Provided that he shall not be so tried after the lapse of six months from the date of the commission of such offence unless such offence is the offence of mutiny, desertion, or fraudulent enlistment.

(2) Where a person subject to military law is sentenced by a court martial to imprisonment or detention for any offence and thereafter ceases to be a person subject to military law, he may, during his imprisonment or detention, be dealt with as if he continued to be a person subject to military law.

58. A court martial shall not try a person for any offence if—

- (a) he has been already acquitted or convicted of that offence by a court martial or by a competent civil court, or
- (b) the charge against him in respect of that offence has been dismissed by his commanding officer, or
- (c) he has been dealt with summarily for that offence by his commanding officer or by the Commander of the Army or by an officer, of a rank not below that of colonel, authorized in that behalf by the Commander of the Army.

For the purposes of this section a person shall not be deemed to have been convicted by a court martial unless the conviction has been confirmed by the authority empowered by this Act to confirm it.

59. A person subject to military law who commits an offence in or outside Sri Lanka may be tried and punished for that offence by a court martial held at any place in which he may be for the time being, if that place is within the jurisdiction of an officer authorized by the President to convene general courts martial.

60. (1) The names of the members of a court martial shall, before they are sworn or affirmed, be read in the hearing of the

accused appearing before the court martial; and the accused shall be asked whether he objects to any such member, and, where as hereinafter provided any such member retires on being objected to and a successor to the retiring member is appointed, the accused shall be asked whether he objects to the succeeding member.

(2) An accused appearing before a court martial may object, for any reasonable cause, to any member of the court martial, including the president, whether appointed to serve on the court martial originally or to fill a vacancy caused by the retirement of a member objected to, so that the court martial may be constituted of officers to whom the accused has no reasonable objection.

(3) An objection of an accused to any member of a court martial shall be submitted to the other members of the court martial.

(4) An objection of an accused to the president of a court martial shall, if upheld by one-third or more of the other members of the court martial, be allowed, and the court martial shall adjourn for the purpose of the appointment of another president.

(5) If an objection of an accused to the president of a court martial is allowed, the authority convening the court martial shall appoint another officer as president, and such officer shall act as president subject to the right of the accused to object to him.

(6) An objection of an accused to a member of a court martial other than the president shall, if upheld by one-half or more of the other members of the court martial, be allowed, and the member objected to shall retire, and the authority convening the court martial shall appoint a successor to the retiring member, subject to the right of the accused to object.

61. (1) If the number of members of a court martial after the commencement of the trial of a case is, by death or otherwise, reduced below the minimum number of members specified in this Act, the court martial shall be dissolved. Procedure.

Effect of acquittal or conviction of an offence.

Place of trial.

Objections by accused to members of court martial.

(2) If after the commencement of the trial of a case the president of a court martial dies or is otherwise unable to attend the court martial and the number of members of the court martial is not reduced below the minimum number of members specified in this Act, the authority who convened the court martial may appoint the senior member of the court martial, if of sufficient rank, to be president, and the trial shall proceed accordingly, but if he is not of sufficient rank, the court martial shall be dissolved.

(3) If the Judge-Advocate appointed to a court martial dies or is unable to attend the court martial owing to illness or any other cause, the court martial shall adjourn and the president shall report the circumstance to the authority who convened the court martial; and in the case of death of the Judge-Advocate, or where the authority who convened the court martial is of the opinion that it is inexpedient to delay the trial until the Judge-Advocate who is unable to attend the court martial is able to do so the court martial shall be dissolved.

(4) If the trial of an accused before a court martial cannot, within a reasonable time having regard to all the circumstances, be continued owing to the illness of the accused, the court martial shall be dissolved.

(5) Where a court martial convened for the trial of an accused is dissolved under any of the preceding provisions of this section, the accused may be tried again before another court martial, without prejudice to the provisions of section 56,

(6) The president of a court martial may, on any deliberation amongst the members of the court martial, cause the place where the court martial sits to be cleared of all other persons.

(7) A court martial may adjourn from time to time.

(8) A court martial may, where necessary, view any place.

(9) Every question before a court martial shall be decided by the majority vote of the members of the court martial. Where

there is an equality of votes of the members of a court martial on the question of the finding in any case, the accused in that case shall be deemed to be acquitted. Where there is an equality of votes of the members of a court martial on the sentence in any case or on any question arising after the commencement of the hearing of any case other than the question of the finding, the president shall have a casting vote.

(10) When a court martial recommends a person under sentence to mercy, the recommendation shall be attached to and form part of the proceedings of the court martial, and shall be promulgated and communicated to such person, together with the finding and sentence.

62. When a person is charged with an offence before a court martial and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence although he was not charged with it.

When offence proved is included in offence charged.

63. (1) Subject to the provisions of the other subsections of this section, the conviction of, and the sentence passed on, an accused by a court martial shall not be valid until confirmed by the authority having power under section 64 to confirm such conviction and sentence.

Conviction and sentence not valid till confirmation.

(2) A sentence of death passed on any person by a court martial in respect of an offence committed by him while not on active service shall not be carried into effect unless it has been confirmed both by the authority referred to in subsection (1) of this section and by the President.

(3) A sentence of death passed on any person by a field general court martial in respect of an offence committed by him while on active service shall not be carried into effect unless it has been confirmed both by the authority referred to in subsection (1) of this section and by the general or field officer commanding the force with which that person was serving on the date of sentence.

64. The authority who shall have power to confirm the conviction of an accused, and the sentence passed on him, by a court martial shall—

Authorities empowered to confirm convictions and sentences.

(a) if that court martial is a general court martial, be the President or

such officer of a rank not below that of field officer as may be authorized by the President, or

(b) if that court martial is a field general court martial, be an officer authorized by the President as provided in paragraph (a) of this section, or

(c) if that court martial is a district court martial, be an officer authorized by the President to convene general courts martial or an officer empowered by any such authorized officer to confirm the conviction of, and the sentence passed on, an accused by a district court martial:

Provided, however, that where the authority having power to confirm the conviction of, and the sentence passed on, an accused by a general court martial or a district court martial has served as a member of that court martial he shall refer such conviction and sentence for confirmation to a superior authority competent to confirm the conviction of, and the sentence passed on, an accused by a like description of court martial, and, if such conviction and sentence are referred to such superior authority such superior authority shall, for the purposes of this Act, be deemed to be the authority having the power to confirm such conviction and sentence.

65. (1) The authority having the power to confirm the conviction of, and the sentence passed on, an accused by any court martial may—

(a) refer such conviction and sentence, or either of them, to that court martial for revision once, but not more than once;

(b) if such conviction and sentence are, or either of them is, revised once by that court martial, or if such conviction and sentence are, or either of them is, not referred to that court martial for revision, confirm such conviction and sentence either in the revised form or in the original form;

(c) withhold confirmation wholly or partly, and refer such conviction and sentence or the part thereof not confirmed, to a superior authority competent to confirm the conviction of, and the sentence passed on, an accused by a like description of court martial; and

(d) in regard to the sentence—

(i) mitigate the punishment to a less amount of the same punishment,

(ii) remit the whole or a part of the punishment,

(iii) commute the punishment to a different form of punishment lower in the scale of punishments authorized by this Act,

(iv) suspend for such time as he may determine the execution of the sentence, and

(v) where the sentence is one of imprisonment or detention passed on a soldier, confirm the sentence and direct that the soldier be not committed to prison or detention barracks until the order of a superior military authority referred to in section 68 has been obtained.

(2) If the authority having the power to confirm the conviction of, and the sentence passed on, an accused by any court martial refers such conviction and sentence for revision to the superior authority referred to in paragraph (c) of subsection (1) of this section, such superior authority shall, for the purposes of this Act, be deemed to be the authority having the power to confirm such conviction and sentence.

66. (1) If the conviction of an accused by a court martial is referred for revision to the court martial by the authority having the power to confirm it, the court martial may affirm the conviction, or revoke it and record a new finding. If the conviction is

Revision of conviction and sentence on reference to court martial.

Powers of confirming authority.

revoked, the court martial shall revoke the sentence also, and if the new finding is not one of acquittal, shall pass a new sentence which shall not be more severe than the original sentence.

(2) If only the sentence passed on an accused by a court martial is referred to the court martial for revision, the court martial may affirm or vary the sentence, but shall not enhance it or substitute for it any other punishment which is more severe in the scale of punishments authorized by this Act.

Revision of sentence which has been confirmed.

67. The President, or the Minister, or any prescribed officer may, in accordance with such regulations as may be made in that behalf, revise any sentence passed on an accused by a court martial and confirmed by an authority having the power to confirm it, and in revising the sentence may—

- (a) mitigate the punishment to a less amount of the same punishment;
- (b) remit the whole or a part of the punishment; and
- (c) commute the punishment to a different form of punishment lower in the scale of punishments authorized by this Act.

Suspension and remission of sentence of imprisonment or detention passed on a soldier.

68. (1) Where a sentence of imprisonment or detention is passed on a soldier by a court martial, a superior military authority may—

- (a) direct that a committal to prison or detention barracks shall not be issued until his order has been obtained, and
- (b) suspend the sentence whether or not the soldier has already been committed to prison or detention barracks.

(2) Where a sentence of imprisonment or detention passed on a soldier is suspended under this section by a superior military authority before the soldier has been committed to prison or detention barracks, the soldier if in custody shall be released, and, notwithstanding anything in this Act, that sentence shall not begin to run

until the soldier is ordered by such authority to be-committed to prison or detention barracks under that sentence.

(3) Where a sentence of imprisonment or detention passed on a soldier is suspended under this section by a superior military authority after the soldier has been committed to prison or detention barracks, the soldier shall be released and the currency of that sentence shall be suspended from the day on which he is released until he is again ordered by such authority to be committed to prison or detention barracks under that sentence.

(4) A superior military authority may, at any time whilst a sentence passed on a soldier is suspended under this section, make order that the soldier be committed to prison or detention barracks, and from the date of such order the sentence shall cease to be suspended.

(5) Where a sentence passed on a soldier has been suspended under this section, the case may at any time, and shall, at intervals of not more than three months, be reconsidered by a competent military authority, and if on any reconsideration it appears to the competent military authority that the conduct of the soldier since his conviction has been such as to justify a remission of the sentence, he shall remit it.

(6) Where a soldier whilst a sentence passed on him is suspended under this section is sentenced by a court martial to imprisonment or detention for a fresh offence, a superior military authority may direct that the two sentences shall run either concurrently or consecutively.

(7) The powers conferred by this section shall be in addition to and not in derogation of any other powers relating to the suspension or remission of sentences.

(8) In this section—

" superior military authority " means the President, the Commander of the Army, or any officer, not below the rank of colonel, who is authorized by the President to exercise the powers under this section, or the

officer in chief command of any such part of the army as may be on active service outside Sri Lanka, and

appearing on behalf of the prosecution or defence at a court martial:—

" competent military authority " means a superior military authority or any officer, not below the rank of field officer, who is authorized by a superior military authority to exercise the powers conferred by subsection (5) of this section.

Commence-
ment of
sentence.

69. A term of imprisonment or detention to which a person is sentenced by a court martial shall, whether the sentence has been revised or not, be reckoned to commence on the day on which the original sentence was signed by the president of that court martial.

Execution of
sentence of
imprisonment.

70. A sentence of imprisonment passed by a court martial on any person shall be executed by causing that person to undergo the term of his imprisonment in a military prison or detention barracks or in any other place of military custody or in a civil prison, or partly in one way and partly in another.

Execution of
sentence of
detention.

71. A sentence of detention passed by a court martial or a commanding officer on any person shall be executed by causing that person to undergo the term of his detention in detention barracks or in military custody or partly in one way and partly in the other, but not in a prison.

Summoning
and privilege of
witnesses at
courts martial.

72. (1) Every person required to give evidence before a court martial shall be summoned in the prescribed manner.

(2) Every person summoned to attend a court martial as a witness shall, during his attendance at the court martial and while going to and returning from the court martial, have the same privilege from arrest as he would have if he were a witness before a civil court.

Counsel at
court martial.

73. (1) At all proceedings before a court martial the prosecution as well as the defence shall be entitled to be represented by counsel.

(2) The following provisions shall have effect with respect to the conduct of counsel

(a) Any conduct of a counsel which would be liable to censure, or would be a contempt of court, if it occurred before a civil court, shall likewise be deemed liable to censure, or be deemed a contempt of the court martial, if it occurs before a court martial.

(b) Where the conduct of a counsel appearing before a court martial is liable to censure or is deemed a contempt of the court martial, the president of the court martial may under his hand certify such conduct of that counsel to the Court of Appeal, and that court may thereupon deal with that counsel in like manner as if such conduct and occurred before that court.

(c) Where the conduct of a counsel appearing before a court martial is liable to censure or is deemed a contempt of the court martial, the president of the court martial may make an order refusing to hear him and may adjourn the proceedings in order to enable other counsel to be retained.

74. (1) Where it appears to a court martial that any person charged before it with an offence is of unsound mind and consequently incapable of making his defence, the court martial shall record an express finding of the fact of his unsoundness of mind and incapacity; and such person shall be kept in custody in the prescribed manner until the directions of the Minister thereon are obtained, or until any earlier time at which such person is fit to take his trial.

Accused
who is of
unsound
mind.

(2) Where, on the trial by a court martial of a person charged with an offence, it appears that such person did the act or made the omission with which he is charged, but that he was of unsound mind at the time of such act or omission, the court martial shall record an express finding that such person was guilty of such act or omission but was of unsound mind at the time when

he did the act or made the omission; and such person shall be kept in custody in the prescribed manner until the directions of the Minister thereon are obtained.

(3) A finding by a court martial under this section shall be subject to confirmation in like manner as the conviction of, and the sentence passed on, a person charged with an offence before that court martial.

(4) After the finding of a court martial under this section as to the unsoundness of mind of any person is confirmed as hereinbefore provided, the Minister may give orders for the safe custody, during his pleasure, of that person in such place and in such manner as the Minister thinks fit.

(5) If a person imprisoned or undergoing detention by virtue of this Act becomes unsound in mind, then, without prejudice to any other provision for dealing with such person, the Minister may, upon a certificate by two qualified medical practitioners that such person is of unsound mind, order that such person shall be removed to a mental hospital or other place for the reception of persons of unsound mind and that he shall be there confined for the unexpired term of his imprisonment or detention or until he is again of sound mind ; and if before the expiry of that term such person is certified in the like manner to be again of sound mind, the Minister may order that such person shall be removed to any prison or detention barracks in which he might have been confined if he had not become unsound in mind and that he shall there serve the remainder of that term.

Right of person tried by court martial to copy of proceedings.

75. (1) Any person tried by a court martial for an offence shall be entitled to obtain from the person having the custody of the record of the proceedings of that court martial a copy thereof, upon payment for it at such rate not exceeding ten cents for every folio of seventy-two words as may be prescribed.

(2) The right conferred by subsection (1) of this section shall be subject to the condition that the demand for the copy of the proceedings of the court martial by the

person referred to in that subsection is made—

- (a) where the court martial is a general court martial, at any time within seven years, and
- (b) where the court martial is a field general court martial or a district court martial, at any time within three years,

after the confirmation of his conviction and the sentence passed on him by the court martial or after his acquittal.

(3) If the person referred to in subsection (1) of this section dies within the period of seven or three years specified in subsection (2) of this section, his next of kin shall, within twelve months after his death, have the right to obtain the copy of the proceedings mentioned in subsection (1) of this section.

76. For the purposes of section 75 the record of the proceedings of every court martial shall be preserved in the prescribed manner by the prescribed officer.

Preservation of records of proceedings of court martial.

PART X

CIVIL COURTS

77. (1) Save as provided in subsection (2) of this section, nothing in this Act shall affect the jurisdiction of a civil court to try or to punish for any civil offence any person subject to military law.

Jurisdiction of civil courts not affected by this Act.

(2) If a person subject to military law is convicted of an offence and sentenced to punishment by a court martial and is afterwards tried for, and convicted of, the same offence, by a civil court, then the civil court shall, in awarding punishment, have due regard to such punishment imposed by the court martial as that person may have already undergone.

78. It shall be the duty of every commanding officer—

Delivery of military offenders to the civil powers.

- (a) on an order made in that behalf by a civil court, to surrender to that

court any officer or soldier under his command who is charged with, or convicted of, any civil offence before that court, and

PART XI

EVIDENCE

- (b) to assist any police officer or any other officer concerned or connected with the administration of justice to arrest any officer or soldier so charged or convicted-

Issue of writs by Court of Appeal.

79. (1) Such of the provisions of Article 140 of the Constitution as relate to the grant and issue of writs of mandamus, certiorari, and prohibition shall be deemed to apply in respect of any court martial or of any military authority exercising judicial functions.

(2) The provisions of Article 141 of the Constitution relating to the issue of writs of habeas corpus shall be deemed to apply in respect of any person illegally detained in custody by order of a court martial or other military authority.

Actions against persons for acts done under this Act.

80. Any action, prosecution, or proceeding against any person for any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act, shall not be instituted or entertained, unless—

- (a) it is commenced within six months next after the act, neglect, or default complained of,
- (b) written notice setting out the cause of action or the alleged offence, the name and place of abode of the person intending to be the plaintiff or complainant, and any relief claimed, has been delivered to, or left at the residence or official address of, the person against whom the action, prosecution or proceeding is intended to be instituted, and
- (c) one month has expired after such notice has been so delivered or left.

81. Subject to the other provisions of this Part, the rules of evidence to be adopted in proceedings before a court martial shall be the same as those followed in the civil courts in Sri Lanka. Rules of evidence.

82. Sections 83 to 93, both inclusive, shall apply to proceedings under this Act whether before a court martial or a civil court notwithstanding anything in any other law. Application of sections 83 to 93.

83. The attestation paper purporting to be signed by a person on his being enlisted as a soldier, or the declaration purporting to be made by a person upon his re-engagement in the army, shall be evidence of the fact that he has given such answer to questions as he is therein represented to have given. Proof of answers given by a person on enlistment or re-engagement as a soldier.

84. The enlistment of a person as a soldier in the army may be proved by the production of a copy of his attestation paper certified to be a true copy by the officer having the custody of the attestation paper, without proof of the handwriting of such officer or of his having such custody. Proof of enlistment.

85. A letter, return, or other document stating, in respect of any person, that such person— Letters, returns, or other documents respecting service.

- (a) has, or has not, at any time served in, or been discharged from, the army, or
- (b) has, or has not, held any rank or appointment in, or been posted or transferred to, any part of the army, or served in any particular country or place, or
- (c) has been, or has not been, authorized to use or wear any military decoration, medal, medal ribbon, badge, wound stripe or emblem, the use or wearing of which by an unauthorized person is an offence under this Act,

and purporting to be signed by or on behalf of the Minister, or by the commanding officer, or the officer having the custody of

the records, of that part of the army to which such person appears to have belonged or alleges that he belongs or at any time belonged, shall be evidence of the facts stated in such letter, return, or other document.

Copies of regulations and orders printed by Government Printer.

86. Copies, purporting to be printed by the Government Printer, of regulations or orders made under this Act shall be evidence of such regulations or orders.

Army list or gazette.

87. An army list or gazette purporting to be published by authority of the President and printed by the Government Printer shall be evidence of the ranks of the officers therein mentioned, and of any appointments held by such officers, and of the parts of the army to which such officers belong or at any time belonged.

Orders made under this Act by military authorities.

88. An order made under this Act by a military authority shall be deemed to be evidence of the matters directed by this Act to be stated therein, and a copy of such order purporting to be certified to be a true copy by the officer therein alleged to be authorized by the Minister to certify it shall be admissible in evidence.

Record made in a regimental book.

89. Where a record is made in any regimental book in pursuance of any written law or of military duty and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated. A copy of such record purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

Descriptive return.

90. A descriptive return, within the meaning of section 150, purporting to be signed by a Magistrate shall be evidence of the matters therein stated.

Certificate regarding surrender of alleged deserter or absentee without leave.

91. (1) Where any officer or soldier charged with being a deserter or absentee without leave has surrendered to a provost marshal, assistant provost marshal or other officer, a certificate purporting to have been signed by such provost marshal, assistant provost marshal or other officer and stating the fact, date, and place of surrender, shall be evidence of the matters so stated.

(2) Where any officer or soldier charged with being a deserter or absentee without leave has surrendered to a police officer in charge of a police station and has been delivered into military custody by such police officer, a certificate purporting to be signed by such police officer and stating the fact, date, and place of surrender shall be evidence of the matters so stated.

92. Where any officer or soldier has been arrested and taken to any office, station, or post, in any place outside Sri Lanka, which corresponds to a police station in Sri Lanka, or has on surrender been taken into custody at any such office, station, or post, a certificate which purports to be signed by the officer in charge of such office, station, or post and which states the fact, date, and place of arrest or surrender shall be evidence of the matters so stated.

Certificate regarding arrest or surrender of officer or soldier outside Sri Lanka.

93. A copy of the whole or any part of the proceedings of a court martial purporting to be certified by the Commander of the Army, or by any officer thereto authorized by the Commander of the Army, to be a true copy of such proceedings or of such part, shall be admissible in evidence without proof of the signature of such Commander or officer.

Copy of proceedings of court martial.

94. Where any person subject to military law has been tried for any offence by a civil court, the Registrar of such court shall, if requested by the commanding officer of such person or by any other officer authorized in that behalf by such commanding officer, transmit to the officer by whom the request is made a certificate setting out the offence for which such person was tried and the judgment of such court thereon. Such certificate shall, in any proceedings before a court martial, be evidence of the matters stated therein.

Evidence of conviction or acquittal by civil court.

PART XII

MILITARY OFFENCES

OFFENCES IN RESPECT OF MILITARY SERVICE

95. Every person subject to military law who—
(a) shamefully abandons or delivers up any fortification, place, post,

Offences in relation to the enemy punishable with death.

garrison, or guard, or uses any means to compel or induce any governor, commanding officer, or other person shamefully to abandon or deliver up any fortification, place, post, garrison, or guard, which it was the duty of such governor, officer, or person to defend, or

- (b) shamefully casts away his arms, ammunition, or tools in the presence of the enemy, or
- (c) treacherously holds correspondence with or gives intelligence to the enemy, or treacherously or without good cause sends a flag of truce to the enemy, or
- (d) assists the enemy with arms, ammunition, or supplies, or knowingly harbours or protects an enemy not being a prisoner, or
- (e) having been made a prisoner of war, voluntarily serves with or voluntarily aids the enemy, or
- (f) knowingly does, when on active service, any act calculated to imperil the success of the army, or any force co-operating therewith, or any part of the army or of any such force,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer death or any less severe punishment in the scale set out in section 133.

96. Every person subject to military law who while on active service—

- (a) without orders from his superior officer leaves the ranks in order to secure prisoners or booty, or on pretence of taking wounded men to the rear, or
- (b) without orders from his superior officer wilfully destroys or damages any property, or
- (c) is taken prisoner, owing to his failure to take due precaution, or through

his disobedience of orders, or wilful neglect of duty, or having been taken prisoner, fails to rejoin the army when able to do so, or

- (d) without due authority either holds correspondence with or gives intelligence to, or sends a flag of truce to the enemy, or
- (e) by word of mouth, or in writing, or by signals, or otherwise spreads reports calculated to create unnecessary alarm or despondency, or
- (f) in action, or previously to going into action, uses words calculated to create alarm or despondency, or
- (g) behaves or induces others to behave before the enemy in such manner as to show cowardice,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133.

97. (1) Every person subject to military law who treacherously makes known the parole, watchword, or countersign to any person not entitled to receive it, or treacherously gives a parole, watchword, or countersign different from what he received, shall be guilty of a military offence and on conviction by a court martial shall—

- (a) where such offence is committed by him while on active service, be liable to suffer death or any less severe punishment in the scale set out in section 133, and
- (b) where such offence is committed by him while not on active service, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Offences punishable more severely on active service than at other times.

Offences in relation to the enemy not punishable with death.

(2) Every person subject to military law who—

- (a) leaves the ranks or his post without the orders of his commanding officer in order to go in search of plunder, or
- (b) forces any escort or safeguard drawn from the army or from an allied force, or
- (c) forces or strikes a sentinel of the army or of an allied force, or
- (d) breaks into any house or other place in search of plunder, or
- (e) being a soldier acting as sentinel, sleeps or is drunk at his post, or
- (f) without orders from his superior officer, leaves his guard, piquet, patrol or post, or
- (g) by discharging firearms, drawing swords, beating drums, making signals, using words, or by any means whatever, intentionally occasions false alarm in action, on the march, in the field, or elsewhere, or
- (h) being a soldier acting as sentinel, leaves his post before he is properly relieved,

shall be guilty of a military offence and, on conviction by a court martial, shall—

- (i) where such offence is committed by him while on active service, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and
- (ii) where such offence is committed by him while not on active service, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less

severe punishment in the scale set out in section 133.

(3) Every person subject to military law who—

- (a) by discharging firearms, drawing swords, beating drums, making signals, using words, or by any means whatever, negligently occasions false alarm in action, on the march, in the field, or elsewhere, or
- (b) makes known the parole, watchword, or countersign to any person not entitled to receive it, or, without good and sufficient cause, gives a parole, watchword, or countersign different from what he received, or
- (c) impedes the provost marshal or any assistant provost marshal or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of the provost marshal, or, when called on, refuses to assist in the execution of his duty the provost marshal, assistant provost marshal, or any such officer, non-commissioned officer, or other person, or
- (d) does violence to any person bringing provisions or supplies to the army or any part thereof or to any foreign force co-operating therewith, or commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving, or
- (e) irregularly detains or appropriates to his own corps, battalion, or detachment any provisions or supplies proceeding to any other part of the army or to any such foreign force as aforesaid, contrary to any orders issued in that respect,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a

soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

to, his superior officer shall be guilty of a military offence and, on conviction by a court martial, shall—

MUTINY AND INSUBORDINATION

Mutiny and sedition.

98. Every person subject to military law who—

- (a) causes or conspires with any other person to cause mutiny or sedition in the Army, Navy or Air Force of Sri Lanka or in any force co-operating therewith, or
- (b) endeavours to seduce any person in any such force as aforesaid from allegiance to the Republic, or to persuade any person in any such force as aforesaid to join in any mutiny or sedition, or
- (c) joins in, or being present does not use his utmost endeavours to suppress, any mutiny or sedition in any such force as aforesaid, or
- (d) acquiring the knowledge of any actual or intended mutiny or sedition in any such force as aforesaid, does not without delay communicate such knowledge to his commanding officer,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer death or any less severe punishment in the scale set out in section 133,

Striking or threatening superior officer.

99. (1) Every person subject to military law who strikes, or uses or offers any violence to, his superior officer while such officer is performing his duties, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133.

(2) Every person subject to military law who strikes, or uses or offers any violence or uses threatening or insubordinate language

(a) where such offence is committed by him while on active service, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and

(b) where such offence is committed by him while not on active service, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

100. (1) Every person subject to military law who disobeys, in such manner as to show a wilful defiance of authority, any lawful command given personally by his superior officer while such officer is performing his duties, whether such command is given orally, or in writing, or by signal, or otherwise, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133.

Disobedience to superior officer.

(2) Every person subject to military law who disobeys any lawful command given by his superior officer shall be guilty of a military offence and, on conviction by a court martial, shall—

(a) where such offence is committed by him while on active service, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and

(b) where such offence is committed by him while not on active service, be liable, if he is an officer, to be cashiered or to suffer any less severe

punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Insubordination.

101. Every person subject to military law who—

- (a) being concerned in any quarrel, affray, or disorder, refuses to obey any officer (though of inferior rank) who orders him into arrest, or strikes or uses or offers violence to any such officer, or
- (b) strikes or uses or offers violence to any other person, whether subject to military law or not, in whose custody he is placed, and whether such other person is or is not his superior officer, or
- (c) resists an escort whose duty it is to arrest him or to have him in charge, or
- (d) being a soldier, breaks out of barracks, camp, or quarters,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Neglect to obey garrison or other orders.

102. (1) Every person subject to military law who neglects to obey any general or garrison or other order shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years.

(2) In this section the expression "general order" does not include a regulation made under this Act.

DESERTION, FRAUDULENT ENLISTMENT. AND ABSENCE WITHOUT LEAVE

103. (1) Every person subject to military law who—

- (a) deserts or attempts to desert the army, or
- (b) persuades, endeavours to persuade, procures or attempts to procure, any person subject to military law to desert the army,

shall be guilty of a military offence and, on conviction by a court martial, shall—

- (i) where such offence is committed by him while on active service or under orders for active service, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and
- (ii) where such offence is committed by him under any other circumstances, be liable for the first offence to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133, and for the second or any subsequent offence to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133,

(2) Where a person charged with the offence of deserting or attempting to desert the army has fraudulently enlisted once or oftener he may, for the purposes of trial for that offence, be deemed to belong to any one or more of the corps to which he has been appointed or transferred as well as to the corps to which he properly belongs ; and it shall be lawful to charge such a person with any number of offences under this section at the same time, and to give evidence of such offences against him, and if he be convicted thereof to punish him accordingly; and further it shall be lawful on conviction of such a person for two or more such offences to award him the higher punishment allowed by this section for a

second offence as if he had been convicted by a previous court martial of one of such offences.

(3) For the purposes of the liability under this section to the higher punishment for a second offence, a previous offence of fraudulent enlistment may be reckoned as a previous offence under this section.

104. (1) Every person subject to military law who, when belonging to the Regular Force or Regular Reserve and without having obtained a regular discharge therefrom or otherwise fulfilled the conditions enabling him to enlist or enrol, enlists or enrolls himself in the Volunteer Force or in any naval or air force in Sri Lanka, or who, when belonging to the Volunteer Force or Volunteer Reserve or to any naval or air force of Sri Lanka and without having obtained a regular discharge therefrom or otherwise fulfilled the conditions enabling him to enlist or enrol, enlists or enrolls himself in the Regular Force, shall be guilty of the military offence of fraudulent enlistment and shall, on conviction by a court martial, be liable—

- (a) for the first offence to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133, and
- (b) for the second or any subsequent offence to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133.

(2) Where a person has fraudulently enlisted on several occasions he may, for the purposes of this section, be deemed to belong to any one or more of the corps to which he has been appointed or transferred as well as to the corps to which he properly belongs; and it shall be lawful to charge such a person with any number of offences under this section at the same time, and to give evidence of such offences against him, and if he be convicted thereof to punish him accordingly; and further it shall be lawful on conviction of such a person for two or more such offences to award him the higher

punishment allowed by this section for a second offence as if he had been convicted by a previous court martial of one of such offences.

(3) Where a person is convicted of the offence of fraudulent enlistment, then for the purposes of his liability under this section to the higher punishment for a second offence, the offence of deserting or attempting to desert the army may be reckoned as a previous offence of fraudulent enlistment under this section, with the exception that the offence of deserting or attempting to desert committed by him next before any offence of fraudulent enlistment shall not upon his conviction of that fraudulent enlistment be reckoned as a previous offence of deserting or attempting to desert.

105. Every person subject to military law who—

- (a) assists any person subject to military law to desert the army, or
- (b) being cognizant of any desertion or intended desertion of a person subject to military law, does not forthwith give notice to his commanding officer, or take any steps in his power to cause the deserter or intending deserter to be arrested,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

106. Every person subject to military law who—

- (a) absents himself without leave, or
- (b) fails to appear at the place of parade or rendezvous appointed by his commanding officer, or goes from thence without leave before he is relieved, or without urgent necessity quits the ranks, or
- (c) being a soldier, when in camp or garrison or elsewhere, is found beyond any limits fixed or in any

Assistance of or connivance at desertion.

Absence from duty without leave.

Fraudulent enlistment.

place prohibited by any general or garrison or other order, without a pass or written leave from his commanding officer, or

- (d) being a soldier without leave from his commanding officer, or without due cause absents himself from any school when duly ordered to attend there,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

DISGRACEFUL CONDUCT

Scandalous conduct of officer.

107. Every officer who, being a person subject to military law, behaves in a scandalous manner, unbecoming the character of an officer and a gentleman, shall be guilty of a military offence and shall, on conviction by a court martial, be cashiered.

Fraud by person in charge of property.

108. Every person subject to military law who, being charged with or concerned in the care or distribution of any public or regimental or garrison property, dishonestly misappropriates, or commits theft or criminal breach of trust of, such property, or abets the dishonest misappropriation, or the committing of theft or criminal breach of trust of, such property, or wilfully damages such property, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133.

Disgraceful conduct.

109. Every person subject to military law who—

- (a) malingers, or feigns or causes in himself disease or infirmity, or
- (b) wilfully maims or injures himself or any other person subject to military law, whether at the instance of that

person or not, with intent thereby to render himself or that person unfit for service, or causes himself to be maimed or injured by any person with intent thereby to render himself unfit for service, or

- (c) by wilful misconduct, or by wilful disobedience of orders whether in hospital or otherwise, produces or aggravates disease or infirmity, or delays its cure, or

- (d) dishonestly misapplies, or commits theft or criminal breach of trust of, or knowing it to be stolen property receives, any property belonging to a person subject to military law, or belonging to any regimental band, regimental or garrison mess, or regimental or garrison institution, or to any navy, army or air force institute, or any public property, or

- (e) commits any other fraudulent act hereinbefore not particularly specified, or any act of a cruel, indecent or unnatural kind,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

DRUNKENNESS

110. Every person subject to military law who is drunk, whether on duty or while not on duty, shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133 and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133, or to pay a fine not exceeding fifty rupees, or to suffer such imprisonment or such punishment as well as to pay such fine :

Provided that, where such person is a soldier and such offence is committed by

him while he is not on active service or on duty, the sentence passed on him shall not exceed detention for a period of six months, with or without the addition of such fine.

assistant provost marshal an account in writing signed by himself of the offence with which the person so committed is charged, or

OFFENCES IN RELATION TO PERSONS
IN CUSTODY

Permitting
escape of
person in
custody.

111. Every person subject to military law who—

- (a) when in command of a guard, piquet, patrol, or post, releases without proper authority, whether wilfully or otherwise, any person committed to his charge, or
- (b) wilfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he has acted wilfully, to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and in any other case to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Irregular
arrest or
confinement.

112. Every person subject to military law who—

- (a) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation, or
- (b) having committed a person to the custody of any officer, non-commissioned officer, provost marshal, or assistant provost marshal, fails without reasonable cause to deliver at the time of the committal, or as soon as practicable, and in any case within twenty-four hours thereafter, to such officer, non-commissioned officer, provost marshal, or

- (c) being in command of a guard and having received any person into his custody, does not as soon as he is relieved from his guard or duty, or, if he is not sooner relieved, within twenty-four hours after that person is committed to his custody, give in writing, to the officer to whom he may be ordered to report, that person's name and offence so far as known to him, and the name and rank of the officer or other person by whom that person was charged, accompanied, if he has received the written account mentioned in paragraph (b), by that account,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

113. Every person subject to military law who, being under arrest, or in confinement or prison, or otherwise in lawful custody, escapes or attempts to escape, shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133 and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Escape from
confinement.

OFFENCES IN RELATION TO PROPERTY

114. Every person subject to military law who takes any reward, fee, or advantage in respect of or in connexion with the purchase of provisions or merchandise brought into any garrison, camp, station, barracks, or place, in which he has any command or authority, or the purchase of

Corrupt
dealings in
respect of
supplies
to army.

any provisions or stores for the use of the army or any part of the army, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Deficiency in, and injury to, equipment.

115. Every person subject to military law who—

- (a) whether by pawning, sale, destruction, or otherwise, makes away with, or is concerned in making away with, his arms, ammunition, equipment, instruments, clothing, regimental necessaries, or any vehicle, vessel, or animal of which he has charge, or any public property issued to him for his use or entrusted to his care for military purposes, or
- (b) loses by neglect any property in the foregoing provisions of this section mentioned, or
- (c) whether by pawning, sale, destruction, or otherwise, makes away with any military decoration granted to him, or
- (d) wilfully injures any property in the foregoing provisions of this section mentioned, or any property belonging to any member of the army, or to any regimental band, regimental or garrison mess, or regimental or garrison institution, or to any navy, army or air force institute, or any public property, or
- (e) ill-treats any animal used in the army,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

OFFENCES IN RELATION TO FALSE DOCUMENTS AND STATEMENTS

116. Every person subject to military law who—

- (a) in any report, return, muster roll, pay list, certificate, book, route, or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes or is privy to the making of—
 - (i) any false or fraudulent statement, or
 - (ii) any omission with intent to defraud, or
- (b) knowingly and with intent to injure any person or to defraud, suppresses, defaces, alters, or makes away with any document which it is his duty to preserve or produce, or
- (c) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration,

Falsifying official documents; and false declarations.

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

117. Every person subject to military law who—

- (a) when signing any document relating to pay, arms, ammunition, equipment, regimental necessaries, furniture, bedding, blankets, sheets, utensils, clothing, provisions, forage, or stores, leaves in blank any material part for which his signature is a warranty, or
- (b) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send,

Neglect to report, and signing in blank.

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a

soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe-punishment in the scale set out in section 133.

False accusation or false statement.

118. Every person subject to military law who—

- (a) being an officer or soldier, makes a false accusation against any other officer or soldier, knowing such accusation to be false, or
- (b) being an officer or soldier, in making a complaint where he thinks himself wronged, knowingly makes any false statement affecting the character of any other officer or soldier, or knowingly and wilfully suppresses any material facts, or
- (c) being a soldier, falsely states to his commanding officer that he has been guilty of desertion or of fraudulent enlistment, or of desertion from any naval or air force of Sri Lanka, or has served in and been discharged from the army or any such naval or air force,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

OFFENCES IN RELATION TO COURTS MARTIAL

119. Every person subject to military law who—

- (a) being duly summoned to attend as a witness before a court martial, makes default in attending, or
- (b) refuses to take an oath or make an affirmation lawfully required by a court martial to be taken or made, or
- (c) refuses to produce any document in his power or control lawfully required by a court martial to be produced by him, or

Offences in relation to courts martial.

(d) refuses when a witness to answer any question to which a court martial may lawfully require an answer, or

(e) commits contempt of a court martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court martial,

shall be guilty of a military offence and shall, on conviction by a court martial, other than the court martial in relation to or before which the offence was committed, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133 :

Provided that where a person subject to military law is guilty of contempt of a court martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court martial, such court martial may, instead of causing him to be tried by another court martial, sentence him to simple or rigorous imprisonment, or, if he is a soldier, to detention, for a term not exceeding twenty-one days.

120. Every person subject to military law who, when examined on oath or affirmation before a court martial or by any officer authorized by this Act to examine him on oath or affirmation, wilfully gives false evidence, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

False evidence.

OFFENCES IN RELATION TO ENLISTMENT

121. (1) Every person subject to military law who, having been dismissed with disgrace from the army or from any naval or air force of Sri Lanka, has afterwards enlisted in the army without

Enlistment of soldier, airman or sailor discharged with disgrace.

declaring the circumstances of his dismissal, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

(2) For the purposes of this section, the expression " dismissed with disgrace " means dismissed for misconduct or on account of conviction of an offence for which a sentence of imprisonment is passed.

122. Every person subject to military law who, when enlisted as a soldier, has wilfully made a false answer to any question set out in the attestation paper signed by him, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

123. Every person subject to military law who—

- (a) is concerned in the enlistment of any other person in the army, when he knows or has reasonable cause to believe that such other person by enlisting commits an offence, or
- (b) wilfully contravenes any provision of law relating to the enlistment of soldiers,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

MISCELLANEOUS MILITARY OFFENCES

124. Every person subject to military law who uses traitorous or disloyal words regarding the President shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple

or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

125. Every person subject to military law who, orally or in writing, or by signal or otherwise, discloses the numbers or position of any forces in Sri Lanka, or any magazines or stock of such forces, or any preparations for, or orders relating to, operations or movements of such forces, at such time and in such manner as, in the opinion of the court martial, to have produced effects injurious to such forces, shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

126. Every officer, warrant officer or non-commissioned officer who—

- (a) strikes or ill-treats any soldier, or
- (b) having received the pay of any officer or soldier, unlawfully detains or unlawfully refuses to pay it when due,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a warrant officer or a non-commissioned officer, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

127. Every person subject to military law who—

- (a) fights, or promotes, or is concerned in or connives at fighting, a duel, or
- (b) attempts to commit suicide,

shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or

Injurious disclosures.

Ill-treating soldier.

Duelling and attempting to commit suicide.

False answers on enlistment.

General offences in relation to enlistment.

Traitorous words.

to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Refusal to deliver to civil court officers and soldiers accused of civil offences.

128. Every person subject to military law who, on application being made to him, neglects or refuses to deliver to a civil court, or to assist in the lawful arrest of, any officer or soldier accused of an offence punishable by a civil court, shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Conduct prejudicial to military discipline.

129. (1) Subject to the provisions of subsection (2) of this section, every person subject to military law who, by any act, conduct, disorder, or neglect, prejudices good order and military discipline, shall be guilty of a military offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

(2) No person shall be charged under subsection (1) of this section in respect of any act, conduct, disorder, or neglect, which constitutes an offence for which special provision is made in any other section of this Act and which is not a civil offence.

Illegal gratification in connexion with appointment or promotion.

130. Every person subject to military law who gives or receives, or aids the giving or receiving of, any valuable consideration in respect of any appointment or promotion in or retirement from the army, or any employment therein, shall be guilty of a military offence and shall, on conviction by a court martial, be liable to be dismissed from the army.

PART XIII

PUNISHMENTS BY COURTS MARTIAL IN RESPECT OF CIVIL OFFENCES

131. (1) Where a person subject to military law is convicted by a court martial of the offence of treason, he shall be liable to suffer death.

Treason, murder, culpable homicide not amounting to murder, and rape.

(2) Where a person subject to military law is convicted by a court martial of the offence of murder, he shall be liable to suffer death.

(3) Where a person subject to military law is convicted by a court martial of the offence of culpable homicide not amounting to murder, he shall be liable to suffer simple or rigorous imprisonment for a term not exceeding twenty years.

(4) Where a person subject to military law is convicted by a court martial of the offence of rape, he shall be liable to suffer simple or rigorous imprisonment for a term not exceeding twenty years.

132. Where a person subject to military law is convicted by a court martial of any civil offence not mentioned in section 131, he shall be liable—

Any civil offence not mentioned in section 131.

(a) if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a soldier, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133, or

(b) to suffer the punishment prescribed for such offence by any law of Sri Lanka other than this Act.

PART XIV

SCALE OF PUNISHMENTS BY COURTS MARTIAL

133. (1) Subject to the provisions of section 134, the following shall be the scale of punishments, in descending order of severity, which may be inflicted on officers convicted of offences by courts martial:—

Scale of punishments by courts martial.

(a) death;

(b) rigorous imprisonment;

- (c) simple imprisonment;
- (d) cashiering;
- (e) dismissal from the army;
- (f) forfeiture, in the prescribed manner, of seniority of rank, either in the army or in the corps to which the offender belongs, or in both; or, in the case of an officer whose promotion depends upon length of service, forfeiture of all or any part of his service for the purposes of promotion;
- (g) severe reprimand or reprimand;
- (h) such penal deductions from pay as are authorized by this Act.

(2) Subject to the provisions of section 134, the following shall be the scale of punishments, in descending order of severity, which may be inflicted on soldiers convicted of offences by courts martial:—

- (a) death;
- (b) rigorous imprisonment;
- (c) simple imprisonment;
- (d) detention for a term not exceeding three years;
- (e) discharge with ignominy from the army;
- (f) dismissal from the army;
- (g) in the case of a warrant officer or a non-commissioned officer, reduction to the ranks or to a lower grade, or forfeiture, in the prescribed manner, of seniority of rank;
- (h) in the case of a warrant officer or a non-commissioned officer, severe reprimand or reprimand;
- (i) such forfeitures of and deductions from pay, and such fines, as are authorized by this Act.

134. The following provisions shall apply in regard to punishments which may be inflicted by courts martial:—

Special provisions in regard to punishments by courts martial.

- (a) For the purposes of commutation and revision of sentence, detention shall not be deemed to be a less severe punishment than imprisonment if the term of detention is longer than the term of imprisonment.
- (b) An officer shall be sentenced to be cashiered before he is sentenced to imprisonment.
- (c) The Minister may cause the restoration of the whole or any part of any lost seniority or forfeited service in the case of an officer who may perform good and faithful service, or who may otherwise be deemed by the Minister to merit such restoration.
- (d) An officer or a non-commissioned officer when sentenced to forfeiture of seniority of rank and an officer when sentenced to forfeiture of all or any part of his service for the purposes of promotion may in addition be sentenced to be severely reprimanded or reprimanded.
- (e) A soldier when sentenced to imprisonment may, in addition thereto, be sentenced to be discharged with ignominy from the army.
- (f) Where a soldier on active service is guilty of any offence, it shall be lawful for a court martial to inflict for that offence such field punishment, other than flogging or attachment to a fixed object, as may be prescribed, and such field punishment shall be of the nature of personal restraint or of hard labour, but shall not be of a nature to cause injury to life or limb.
- (g) For the purpose of commutation of sentence the field punishment above mentioned shall be deemed to stand in the scale of punishment next below detention.

- (h) In addition to or in lieu of any other punishment in respect of any offence committed by a soldier on active service, it shall be lawful for a court martial to order that such soldier shall forfeit all ordinary pay for a period commencing on the day of the sentence and not exceeding three months.
- (i) In addition to or in lieu of any other punishment in respect of any offence, an offender convicted by a court martial may be sentenced to forfeiture of any deferred pay, service towards pension, military decoration, or military reward, in such manner as may be prescribed.
- (j) In addition to or in lieu of any other punishment in respect of any offence, an offender may be sentenced by a court martial to any deduction authorized by this Act to be made from his pay,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees-

136. Every person, other than a person subject to military law, who has knowingly made a false answer to any question put to him at an examination for his enlistment as a soldier shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding three months.

False answers by applicants for enlistment.

137. Every person, other than a person subject to military law, who falsely represents himself to any military, naval, air-force, or civil authority to be a deserter from the army shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding three months.

Pretending to be a deserter.

138. Every person, other than a person subject to military law, who by any means—

Inducing or assisting officers or soldiers to desert or absent themselves without leave.

- (a) procures or persuades any officer or soldier to desert or absent himself without leave, or attempts to procure or persuade any officer or soldier to desert or absent himself without leave, or
- (b) knowing that an officer or soldier is about to desert or absent himself without leave, aids or assists him in deserting or absenting himself without leave, or
- (c) knowing any officer or soldier to be a deserter or absentee without leave, conceals such officer or soldier or aids or assists him in concealing himself, or aids or assists in his rescue from arrest,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding six months.

PART XV

OFFENCES UNDER THIS ACT WHICH ARE NOT MILITARY OFFENCES

135. Every person, other than a person subject to military law, who without due authority—

- (a) publishes or causes to be published notices or advertisements for the purpose of procuring recruits for the army, or relating to recruits for the army, or
- (b) opens or keeps any house, place of rendezvous or office connected with the procuring of recruits for the army, or
- (c) receives any person under any such notice or advertisement as aforesaid, or
- (d) directly or indirectly interferes with a duly appointed recruiter in the discharge of his duties,

Unlawful recruiting. [§ 2, 22 of 1964.]

Interference with military duties.

139. Every person, other than a person subject to military law, who—

- (a) wilfully obstructs, impedes, or otherwise interferes with any officer or soldier in the execution of his duties, or
- (b) wilfully produces any disease or infirmity in, or maims or injures, any person whom he knows to be a soldier with a view to enabling such person to avoid military service, or
- (c) with intent to enable a soldier to render himself, or induce the belief that he is, permanently or temporarily unfit for service, supplies to, or for the use of, such soldier any drug or preparation calculated or likely to render him, or lead to the belief that he is, permanently or temporarily unfit for service,

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

Illegal gratification to persons not subject to military law in respect of appointments or promotions in the army.

140. Every person, other than a person subject to military law, who gives or receives, or aids the giving or receiving of, any valuable consideration in respect of any appointment or promotion in or retirement from the army, or any employment therein, 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 simple or rigorous imprisonment for a term not exceeding six months.

Purchase of regimental necessaries, equipment, stores, &c.

141. (1) Every person, other than a person subject to military law, who—

- (a) buys, exchanges, takes in pawn, detains, or receives from any person, on any pretence whatsoever, or
- (b) solicits or entices any person to sell, exchange, pawn, or give away, or

(c) assists or acts for any person in selling, exchanging, pawning, or making away with,

any arms, ammunition, equipment, instruments, regimental necessaries, or clothing issued for the use of officers or soldiers, or any military decorations of any officer or soldier, or any furniture, bedding, blankets, sheets, utensils, or stores in regimental charge, or any provisions or forage issued for the use of any officer or soldier or of any horse belonging to the army, or any other property of the army, shall, unless he proves either that he acted in ignorance of the fact that such article was the property of the army, or that it was purchased at a sale held by order or with the consent of the Minister or the Commander of the Army, or that it was the personal property of an officer who had retired or ceased to be an officer, or of a soldier who had been discharged, or of the legal representative of any officer or soldier who had died, be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees, together with a penalty of treble the value of any property of which such person has become possessed by means of his offence, or to simple or rigorous imprisonment for a term not exceeding six months, or to both such fine and imprisonment. Such penalty may be recovered in like manner as a fine imposed by the Magistrate.

(2) Where any property mentioned in subsection (1) of this section is found in the possession or keeping of any person, such person may be taken or summoned before a Magistrate's Court, and if such court has reasonable ground to believe that the property so found was stolen, or was bought, exchanged, taken in pawn, obtained or received in contravention of this section, then if such person does not satisfy such court that he came by the property so found lawfully and without any contravention of this Act, he shall be liable, on conviction after summary trial, to the same punishments as are prescribed in the case of a contravention of the last preceding subsection.

(3) A person found committing an offence under this section may be arrested without warrant, and taken, together with the property which is the subject of the offence, before a Magistrate's Court; and any person to whom any property mentioned in subsection (1) of this section is offered to be sold, pawned, or delivered, and who has reasonable cause to suppose that it is offered in contravention of this section, may, and, if he has the power, shall, arrest the person offering such property, and forthwith take him, together with such property, before a Magistrate's Court.

(4) A Magistrate's Court, if satisfied on the evidence on oath or affirmation of any person that there is reasonable cause to suspect that any other person has in his possession, or on his premises, any property with respect to which any offence in this section mentioned has been committed, may grant a warrant to search for such property, as in the case of stolen property; and the officer charged with the execution of such warrant shall seize any such property found on search of that other person or his premises and shall bring the person in whose possession such property is found before such court to be dealt with according to law.

(5) For the purposes of this section, property shall be deemed to be in the possession or keeping of a person if it is possessed or kept for him by any other person.

Unlawful possession of military certificates, &c.

142. Every person, other than a person subject to military law, who—

- (a) receives or has in his possession any identity certificate, life certificate, or other certificate, or official document evidencing or issued in connexion with the right of any person to a military pension or pay, or to any bounty, allowance, gratuity, relief, benefit or advantage granted in connexion with military service, as a pledge or security for a debt or with a view to obtain payment from the person entitled thereto of a debt due either to the first-mentioned person or to any other person, or

- (b) without lawful authority or excuse (the proof whereof shall lie on the accused) has in his possession any such certificate or document, or any certificate of discharge or any other official document issued in connexion with the mobilization or demobilization of the army or any member thereof,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to the like punishments as for an offence under section 141.

143. Every person, other than a person subject to military law, who—

Unauthorized use of decorations, &c.

- (a) without lawful authority uses or wears any military decoration or medal, or medal ribbon, or any badge, wound stripe, or emblem supplied or authorized by the President, or any imitation thereof which is calculated to deceive, or
- (b) falsely represents himself to be a person who is or has been entitled to use or wear any such decoration, medal, or medal ribbon, badge, wound stripe, or emblem, or
- (c) without lawful authority or excuse supplies or offers to supply any such decoration, medal, medal ribbon, badge, wound stripe, or emblem to any person not authorized to use or wear it,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees or to simple or rigorous imprisonment for a term not exceeding three months;

Provided that nothing in this section shall be deemed to prohibit the wearing or supply of any ordinary regimental badge or any brooch or ornament representing it by or to any person who is not a member of the regiment to which the badge belongs.

144. (1) It shall be the duty of every employer to give all proper facilities for enabling any person in his employ to

Obligations of employers.

become or to be a member of the Volunteer Force or the Volunteer Reserve and any such person who is a member of that force or reserve to undergo and render such military training and military service as he may be required to undergo and render by virtue of this Act.

- (2) Any employer who—
 - (a) fails to give the facilities referred to in subsection (1) of this section, or
 - (b) by dismissing an employee or by reducing his wages or in any other manner penalizes him for undergoing or rendering any training or service referred to in that subsection,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred rupees, or to both such imprisonment and fine.

Misconduct of civilian witness at court martial.

145. Where any person, other than a person subject to military law—

- (a) being duly summoned as a witness before a court martial and after payment or tender of the reasonable expenses of his attendance, makes default in attending the court martial, or
- (b) being in attendance as a witness before a court martial—
 - (i) refuses to take any oath or make any affirmation which he is lawfully required by the court martial to take or to make, or
 - (ii) refuses to produce any document, in his power or control, which he is lawfully required by the court martial to produce, or
 - (iii) refuses to answer any question which he is lawfully required by the court martial to answer,

he shall be deemed to commit an offence; and the president of the court martial may under his hand certify such offence of that person to the nearest civil court, and that court may thereupon deal with that person in like manner as if he had committed a like offence in that court.

146. (1) Where any person, other than a person subject to military law, wilfully gives false evidence when examined on oath or affirmation before a court martial, he shall be deemed to commit the offence of giving false evidence under Chapter XI of the Penal Code and may be prosecuted and punished accordingly.

False evidence by civilian witness at, and contempt of civilian towards, court martial.

(2) Where any person, other than a person subject to military law, uses insulting or threatening language about or towards a court martial, or causes any interruption or disturbance in its proceedings, or prints or publishes observations or utters words calculated to influence the members of or witnesses before a court martial or to bring a court martial into disrepute, he shall be deemed to commit the offence of contempt of that court martial; and the president of that court martial may under his hand certify such offence of that person to the Court of Appeal, and that court may thereupon deal with that person in like manner as if he had been charged with the offence of contempt committed against or in disrespect of the authority of that court.

147. Where any person promotes or organizes or is a member of any association or body of persons who, without the permission of the President, are being trained in the use of any weapon of war or are undergoing any training of a military nature, he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding six months.

Unauthorized training of a military nature.

PART XVI

DESERTERS AND ABSENTEES
WHHOLIT LEAVE

148. When any soldier has been absent without leave from his duty for a period of twenty-one days—

Inquiry into absence of soldier.

- (a) a court of inquiry may as soon as practicable be assembled, and

inquire in the prescribed manner, on oath or affirmation which such court is hereby authorized to administer, respecting the fact of the soldier's absence, and the deficiency, if any, in the arms, ammunition, equipment, instruments, regimental necessaries or clothing of the soldier, or in any public property issued to him for his use in connexion with his duties or entrusted to his care for military purposes; and

- (b) if satisfied of the fact of the soldier's absence without leave or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any; and
- (c) the commanding officer of the absent soldier shall enter in the regimental books a record of the declaration of such court; and
- (d) if the absent soldier does not afterwards surrender or is not arrested, such record shall have the legal effect of a conviction by a court martial for desertion.

Confession by soldier of desertion or fraudulent enlistment.

149. (1) Where a soldier signs a confession that he has been guilty of the military offence of desertion or of fraudulent enlistment, a competent military authority may by order dispense with his trial by a court martial and award the same forfeitures and the same deductions from pay as a court martial is empowered by this Act to award for such offence.

(2) If, in any case where a soldier makes any confession referred to in subsection (1) of this section, evidence of the truth or falsehood of such confession cannot be conveniently obtained, a record of such confession, certified by the commanding officer of the soldier, shall be made in the regimental books, and the soldier shall continue to do duty in the corps in which he may then be serving, or in any other corps to which he may be transferred, until he is discharged or transferred to the reserve, or until legal proof can be obtained of the truth or falsehood of such confession,

(3) For the purposes of this section, "competent military authority" means the President, or any such officer of a rank not below that of Colonel as is authorized by the President.

150. The following provisions shall have effect with respect to deserters and absentees without leave:—

Arrest of deserters and absentees without leave.

- (1) Upon reasonable suspicion that a person is a deserter or absentee without leave, it shall be lawful for any police officer, or if there is no police officer at hand, then for any officer or soldier or other person, to arrest such suspected person, and forthwith to bring him before a Magistrate's Court.
- (2) A Magistrate's Court, if satisfied by evidence on oath or affirmation that a deserter or absentee without leave is or is reasonably suspected to be within the jurisdiction of that court, may issue a warrant authorizing such deserter or absentee to be arrested and brought forthwith before that court.
- (3) Where a person is brought before a Magistrate's Court charged with being a deserter or absentee without leave under this Act, that court—

(a) if satisfied, either by independent evidence taken on oath or affirmation or by the confession of such person, that he is a deserter or absentee without leave, shall forthwith, as it may seem to that court most expedient with regard to his safe custody, cause him either to be delivered into military custody in such manner as that court may deem most expedient, or, until he can be so delivered, to be committed to some prison, police station, or other place legally provided for the confinement of persons in custody, for such time as appears to that court reasonably necessary for the purpose of delivering him into military custody, and

PART XVII

IMPRISONMENT AND DETENTION

- (b) where such person confesses himself to be a deserter or absentee without leave and that court is not convinced of the truth of the confession, shall remand such person for the purpose of obtaining information as to the truth or falsehood of the confession, and for that purpose that court shall transmit to the Commander of the Army a return (in this Act referred to as a "descriptive return") in such form and containing such particulars as may be prescribed.
- (4) The court may, from time to time, remand the person referred to in subsection (3) of this section for a period not exceeding eight days in each instance.
- (5) Where under paragraph (3) (a) of this section a court causes a person either to be delivered into military custody or to be committed as a deserter or absentee without leave, the court shall send to the Commander of the Army a descriptive return in relation to such deserter or absentee without leave.
- (6) Where a person surrenders himself to a police officer as being a deserter or absentee without leave, the officer in charge of the police station to which he is brought shall forthwith inquire into the case, and, if it appears to him from the confession of that person that that person is a deserter or absentee without leave, may cause that person to be delivered into military custody without bringing him before a Magistrate's Court under this section, and in such case shall send to the Commander of the Army a certificate signed by himself as to the fact, date, and place of the surrender of that person.

151. (1) An order of the competent military authority shall be a sufficient warrant for the committal of a military prisoner to prison or detention barracks, or a soldier under sentence of detention to detention barracks.

Committal, removal, release, &c., of military prisoner or soldier undergoing detention.

(2) An order of the competent military authority shall be a sufficient authority for the transfer of a military prisoner from prison to detention barracks, or vice versa, or from any prison or detention barracks to any other prison or detention barracks, or for the transfer of a soldier undergoing detention from any detention barracks to any other detention barracks, or for the delivery into military custody of a military prisoner or a soldier undergoing detention.

(3) A military prisoner or a soldier undergoing detention may at any time, if his sentence is remitted, be released by order of the competent military authority.

(4) A military prisoner or a soldier undergoing detention may, during his conveyance from place to place, or when on board ship or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.

(5) For the purposes of this section, "competent military authority" means the President or any such officer of a rank not below that of Colonel as is authorized by the President.

152. (1) A military prisoner while in a civil prison shall be confined, kept to hard labour, and otherwise dealt with in the same manner as an ordinary prisoner under a like sentence of imprisonment.

Military prisoners in civil prisons.

(2) Where the hospital or place for reception of sick persons in any prison or detention barracks is detached from the prison or detention barracks, a military prisoner or a soldier undergoing detention may be detained in that hospital or place, and conveyed to or from it as circumstances require.

Duty of superintendent of any prison.

153. (1) The superintendent of every prison in Sri Lanka shall receive and confine, until the time of discharge or delivery into any other lawful custody—

- (a) all prisoners sent to such prison in pursuance of this Act, and
- (b) every person delivered into his custody as a deserter or absentee without leave by any person conveying him under legal authority on production of the warrant of a Magistrate's Court on which such deserter or absentee without leave has been taken or committed.

(2) Every superintendent referred to in subsection (1) of this section shall also receive into his custody for a period not exceeding seven days any soldier in military custody upon delivery to him of a written order purporting to be signed by the commanding officer of such soldier.

(3) The provisions of this section with respect to the superintendent of a prison in Sri Lanka shall apply to a person having charge of any police station or other place in which prisoners may legally be confined.

Establishment and regulation of military prisons and detention barracks.

154. (1) It shall be lawful for the Minister to set apart any building or part of a building under his control as a military prison or as detention barracks.

(2) In any country in which operations against the enemy are being conducted, the powers of the Minister under subsection (1) of this section and the powers of the Minister to make regulations in respect of any of the matters mentioned in paragraphs (q), (r), (s) and (t) of subsection (1) of section 155 shall be exercised by the officer for the time being in command of the forces of Sri Lanka in the field, and the limitations contained in subsection (2) of section 155 on the power of making regulations as to the punishment of prisoners and soldiers undergoing detention and as to the severity of imprisonment and detention shall not apply:

Provided that nothing in this subsection or in any regulations made thereunder shall authorize flogging or other corporal punishment to be inflicted for any offence.

(3) The powers conferred by subsection (2) of this section shall continue to be exercisable after the cessation of operations so long as the forces in the country in question are on active service.

PART XVIII

MISCELLANEOUS

155. (1) Subject to the provisions of Regulations. subsection (2) of this section, the Minister may make regulations in respect of all or any of the following matters;—

- (a) the uniforms to be worn by members of the army;
- (b) the training of members of the army;
- (c) the discipline of members of the army;
- (d) the disbandment of the whole or a part of any corps of the army;
- (e) the termination of the services of any member of the army;
- (f) the administration of the army;
- (g) the assembly and procedure of courts of inquiry;
- (h) the convening and constituting of courts martial;
- (i) the adjournment, dissolution, and sittings of courts martial;
- (j) the procedure to be observed in trials by courts martial;
- (k) the confirmation and revision of the findings and sentences of courts martial;
- (l) the carrying into effect of sentences of courts martial;
- (m) the forms of orders to be made under the provisions of this Act relating to courts martial, imprisonment, or detention;
- (n) any matter in this Act stated or required to be prescribed ;

- (o) any matter in respect of which regulations are authorized by any other provision of this Act;
- (p) any matter expedient or necessary for the purpose of carrying this Act into execution so far as relates to the investigation, trial, and punishment of military offences;
- (q) the government, management, and regulation of military prisons and detention barracks;
- (r) the appointment, removal, powers and duties of inspectors, visitors, superintendents and officers of military prisons and detention barracks;
- (s) the labour of prisoners in military prisons and of soldiers undergoing detention in detention barracks, and the enabling of such prisoners or soldiers to earn, by special industry and good conduct, a remission of portion of their sentence;
- (t) the safe custody of the aforesaid prisoners or soldiers, the maintenance of discipline among them, the punishment by personal correction, restraint or otherwise of offences committed by them, and the temporary release of them in such cases, for such periods, and subject to such conditions, as may be prescribed.

(2) No regulation made in respect of the matters mentioned in paragraph (s) or paragraph (t) of subsection (1) of this section shall authorize corporal punishment to be inflicted for any offence, nor render the imprisonment or detention more severe than it is, under the law in force for the time being, in any civil prison.

(3) The regulations as to the procedure of courts of inquiry may provide for the taking of evidence on oath or affirmation and may empower such courts to administer oaths or affirmations for that purpose.

(4) The regulations as to the investigation of a charge may provide for

the taking of a written summary of the evidence on oath or affirmation, and may empower a commanding officer, or any other officer before whom he directs such summary to be taken, to administer oaths or affirmations for that purpose.

(5) Every regulation made by the Minister under this section shall be published in the Gazette and shall come into operation from the date on which it is so published.

(6) Every regulation made by the Minister under this section shall, as soon as practicable, be brought before Parliament by motions that such regulation shall be approved.

(7) Any regulation which Parliament refuses to approve shall be deemed to be rescinded but without prejudice to the validity of anything previously done thereunder or to the making of any new regulation. The date on which a regulation shall be so deemed to be rescinded shall be the date on which Parliament refuses to approve it.

(8) Notification of the date on which any regulation made by the Minister under this section is deemed to be rescinded shall be published in the Gazette.

156. Every regulation which has been made under the Defence Force Ordinance, No. 8 of 1910, repealed by Act No. 17 of 1949, and which is in force on the day immediately preceding the appointed date shall, in so far as it applies to any Defence Corps formed under that Ordinance and in existence on that day, continue to be in force as if it had been made under this Act, subject to amendment or rescission by regulation made under this Act.

Continuance in force of regulations made under the Defence Force Ordinance.

156A. Notwithstanding the repeal of the Defence Force Ordinance, No. 8 of 1910, by Act No. 17 of 1949, section 17 of that Ordinance, as amended by Ordinance No. 5 of 1945, shall be deemed to be in force for the purpose of awarding a pension or gratuity to any person who but for such repeal would have been eligible for a

Special provisions relating to the payment of pensions and gratuities to certain members of the Ccyion Defence Force. [§ 3, 22 of 1964.]

pension or gratuity under that section, and accordingly—

- (a) a pension or gratuity may be awarded to any such person in accordance with the provisions of that section, and
- (b) the determination made under that section and published in Gazette No. 9,419 of June 15, 1945, shall continue in force subject to amendment or cancellation by the Minister by notification published in the Gazette.

trust of any property, or of receiving any property knowing it to be stolen property, and the property or any part thereof is found in the possession of that person, the authority confirming the conviction of, and the sentence passed on, that person by that court martial, or the Minister, may order the property so found to be restored to the person appearing to be the lawful owner thereof.

(2) Where any property found in the possession of any person referred to in subsection (1) of this section appears to the authority mentioned in that subsection or to the Minister to have been obtained by the conversion or exchange of any of the property referred to in that subsection, an order similar to an order under that subsection may be made by such authority or the Minister.

(3) Where it appears to the authority mentioned in subsection (1) of this section or to the Minister, from the evidence given before the court martial, that any part of the property referred to in that subsection was sold to or pawned with any person without any guilty knowledge on the part of that person, such authority or the Minister may, on the application of that person, and on the restitution of such property to the owner thereof, order that out of the money, if any, found in the possession of the offender, a sum not exceeding the amount of the proceeds of the sale or pawning shall be paid to that person.

(4) An order under this section shall not bar the right of any person, other than the offender or anyone claiming through him, to recover any property delivered in pursuance of such order from the person to whom it is so delivered.

(5) For the purposes of this section, "property" includes money.

156B. Section 17 of the Defence Force Ordinance, No. 8 of 1910, as amended by Ordinance No. 5 of 1945, which is deemed to be in force by virtue of the provisions of the preceding section of this Act shall, for the purposes of awarding a pension or gratuity to the widow or family of such officer or soldier as is referred to in the aforesaid section 17, be deemed always to have had effect subject to the following amendment, that is to say, the substitution, for the words "who dies within seven years of sustaining or contracting such wound, injury or disease:" in paragraph (c) of subsection (1) of the aforesaid section 17, of the words "who dies as a result of such wound, injury or disease : ", and accordingly a pension or gratuity may be awarded to any such widow or family in accordance with the provisions of the aforesaid section 17 as so amended.

157. All property belonging to the army or to any part of the army, other than the property of individual members of the army, and the exclusive right to sue for and recover moneys and other property due to the army or to any part of the army, shall vest in the Commander of the Army for the time being, with power for him to sue, to make contracts and conveyances, and to do all other lawful things relating to such property; and any civil or criminal proceedings taken by virtue of this section by the Commander of the Army shall not be discontinued and shall not abate by reason of his death, resignation, retirement, or removal from office, but may be carried on by and in the name of his successor in office.

158. (1) Where a person has been convicted by a court martial of the offence of committing theft or criminal breach of

159. Any power vested in, any report or other communication to be made to, and any act or thing to be done before, a person holding any military office may be exercised by, made to, or done before, any other person for the time being authorized in that behalf according to the custom of the army or according to regulations made under section 155.

Exercise of powers vested in holder of military office.

Special provisions relating to the payment of pensions and gratuities to widows and families of certain deceased members of the Ceylon Defence Force. [§ 2, 22 of 1971.]

Vesting of property of army in the Commander of the Army.

Power as to restitution of stolen property.

Provisions as to warrants and orders of military authorities.

160. (1) Where any order is authorized by this Act to be made by the Minister, the Commander of the Army, or any other officer commanding, such order may be signified by an order under the hand of any officer authorized to issue orders on behalf of the Minister, or Commander of the Army, or other officer commanding, and an order purporting to be signed by any officer appearing therein to be so authorized shall be evidence of his being so authorized.

(2) Subsection (1) of this section shall extend to any order or direction issued in pursuance of this Act in relation to a military prisoner or soldier undergoing detention, and any such order or direction shall not be held void by reason of the death or removal from office of the officer signing it or ordering its issue, or by reason of any defect in it, if it states that the prisoner or soldier has been convicted.

(3) An order in any case if issued in the prescribed form shall be valid, but an order deviating from the prescribed form if otherwise valid shall not be rendered invalid by reason only of the deviation.

(4) Where any military prisoner or soldier undergoing detention is for the time being in custody, whether military or civil, in any place or in any manner in which he might legally be kept in custody in pursuance of this Act, custody of such prisoner or soldier shall not be deemed to be illegal only by reason of any informality or error in or as respects the order, warrant, or other document, or the authority by or in pursuance whereof such prisoner or soldier was brought into or is detained in such custody, and any such order, warrant, or document may be amended accordingly.

(5) Where for the purpose of conveyance by sea, any person in military custody is delivered on board a ship to the person in command of the ship, the order of the military authority which authorizes the person in military custody to be conveyed by sea shall be a sufficient authority to the person in command of the ship to keep him in custody and convey him in accordance with the order, and the person kept in such custody shall be deemed to be in military custody.

161. (1) Where any member of any armed force raised outside Sri Lanka is attached to the army of Sri Lanka for duty and service with that army, he shall be subject to the provisions- of this Act while he is so attached.

Members of any foreign armed force attached to the army of Sri Lanka.

(2) Any member of any armed force raised outside Sri Lanka may, at the request of the commanding officer of that force and with the consent of the Minister, be attached to the army of Sri Lanka for exercise or training, and where such member is so attached, he shall be subject to the provisions of this Act save in respect of liability to be called out on active service.

162. In this Act unless the context otherwise requires—

Interpretation.

" active service " means service rendered—

- (a) in the defence of Sri Lanka in time of war, or
- (b) in the prevention or suppression of any rebellion, insurrection or other civil disturbance in Sri Lanka, or
- (c) in the performance of such duties as are referred to in section 23;

"appointed date " means the 10th day of October, 1949;

" army " means the Sri Lanka Army;

" civil court " means any court other than courts martial;

" civil offence " means an offence against any law of Sri Lanka which is not a military offence;

" civil prison " means any prison in which offenders sentenced to imprisonment by a civil court are confined;

" military prison" means a prison for military prisoners;

" military prisoner" means a person under sentence of imprisonment passed by a court martial;

" Minister " means the Minister in charge of the subject of Defence;

" non-commissioned officer " includes an acting non-commissioned officer, but does not include a warrant officer;

" officer " means an officer commissioned as an officer of the army ;

"prescribed" means prescribed by regulation made under this Act;

"soldier" does not include an officer as defined by this Act, but, subject to the special provisions in this Act contained in relation to warrant officers and non-commissioned officers, does include a warrant officer and a non-commissioned officer; and

" superior officer ", in relation to a soldier includes a warrant officer and a non-commissioned officer.

CHAPTER 229

AIRPORTS AUTHORITY

Act
No. 46 of 1979.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF AN AIRPORTS AUTHORITY OF SRI LANKA, TO SPECIFY THE POWERS AND FUNCTIONS OF SUCH AUTHORITY AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st August. 1979.]

Short title.

1. This Act may be cited as the Airports Authority Act.

PART I

ESTABLISHMENT OF THE AIRPORTS AUTHORITY AND ITS CONSTITUTION

Establishment of the Airports Authority.

2. (1) There shall be established a body called the Airports Authority of Sri Lanka (in this Act referred to as the " Authority ").

(2) The Authority shall by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

(3) The application of the seal of the Authority shall be authenticated by the signature of the secretary of the Authority or some other person, authorized by the Authority, either generally or specially, to act for that purpose.

(4) Any document purporting to be a document duly executed under the seal of the Authority shall be received in evidence in any court, tribunal or other institution and shall, unless the contrary is proved, be deemed to be a document so executed.

Constitution of the Authority.

3. (1) The Authority shall consist of five members appointed by the Minister.

(2) The Minister shall appoint one of the members of the Authority to be the Chairman of the Authority.

(3) The members of the Authority shall be appointed from among persons who appear to the Minister to have had wide

experience of, and to have shown capacity in, air transport, other forms of transport, industry, commercial or financial matters, administration, the organization of workers or the representation of the interests of air travellers.

(4) Before appointing a person to be a member of the Authority the Minister shall satisfy himself that such person has no financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Authority. The Minister shall also satisfy himself from time to time that no member of the Authority has any such interest. Any person who is, or whom the Minister proposes to appoint to be, a member of the Authority shall, whenever requested by the Minister so to do, furnish to him such information as the Minister considers necessary for the performance by him of his duties under this subsection.

(5) A Member of Parliament or of any local authority shall not be eligible for appointment or to continue in office as a member of the Authority.

4. Every member shall, unless he is earlier removed from or otherwise vacates or is disqualified from continuing to hold office, hold office for a period of three years: Term of office of members.

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

Resignation, removal and reappointment of members.

5. (1) A Member may at any time resign his office by a letter addressed to the Minister.

(2) Where a member is temporarily unable to discharge the duties of his office on account of ill-health, absence from Sri Lanka or any other cause, the Minister may appoint some other person to act in his place.

(3) Where the Minister is satisfied that a member of the Authority—

- (a) has been absent from meetings of the Authority for a period longer than five consecutive months without the permission of the Authority, or
- (b) has become bankrupt or made an arrangement with his creditors, or
- (c) is incapacitated by physical or mental illness, or
- (d) is otherwise unable or unfit to discharge the functions of a member,

he may declare the office of such member to be vacant and take steps to appoint another member in his place.

(4) The Minister may, if he thinks it expedient to do so, remove a member from office without assigning any reason.

(5) A member of the Authority shall unless he is removed from office or is disqualified be eligible for reappointment.

Remuneration of members.

6. The members of the Authority may be remunerated in such manner and at such rates as the Minister may, in consultation with the Minister in charge of the subject of Finance, determine.

PART II

PROCEEDINGS OF THE AUTHORITY

Rules for the regulation of procedure and transaction of business.

7. The Authority may make rules not inconsistent with the provisions of this Act for the regulation of procedure and the transaction of business at meetings.

8. The validity of any proceedings of the Authority shall not be affected by any vacancy among the members or by any defect in the appointment of any member. Validity of proceedings.

9. The quorum for any meeting of the Authority shall be three members. Quorum.

10. (1) The Chairman of the Authority shall preside at every meeting of the Authority at which he is present. In the absence of the Chairman at any meeting of the Authority any member elected by the members present shall preside at such meeting. Meetings of the Authority-

(2) The person presiding at any meeting of the Authority shall, in addition to his own vote, have a casting vote.

11. A member who is directly or indirectly interested in a contract made or proposed to be made by the Authority shall disclose the nature of his interest at a meeting of the Authority and that member shall not take part in any deliberation or decision of the Authority with respect to such contract. Such member shall withdraw from the meeting when such matter comes up for deliberation or decision. Members to disclose interest in contract proposed to be made by the Authority.

PART III

THE AUTHORITY'S DUTIES, FUNCTIONS AND POWERS

12. (1) In the exercise, discharge and performance of its powers, functions and duties, the Authority shall be subject to the direction and control of the Minister. Authority subject to the direction and control of the Minister.

(2) The Minister may give to the Authority general or special directions as to the exercise, discharge and performance by the Authority of its powers, functions and duties in relation to matters which appear to him to affect the national interest.

(3) In time of war, whether actual or imminent, or of national emergency, the Minister may by order require that all or any property or rights of or under the control of the Authority shall be placed at the disposal of the Minister, and while such order is in force the Minister may give to

the Authority such directions as he thinks fit and it shall be the duty of the Authority to comply with such directions.

(4) The Minister may give the Authority directions to do a particular thing which it has power to do or refrain from doing a particular thing if he considers it appropriate to give such directions—

- (a) in the interests of national security; or
- (b) in connexion with any matter appearing to the Minister to affect the relations of the Republic with any other country or territory ; or
- (c) in order to discharge or facilitate the discharge of an obligation binding on the Republic by virtue of its being a member of an international organization or a party to an international agreement; or
- (d) in order to attain or facilitate the attainment of any other object the attainment of which is in the opinion of the Minister appropriate in view of the fact that the Republic is a member of an international organization or a party to an international agreement; or
- (e) in order to enable the Republic to become a member of an international organization or a party to an international agreement; or
- (f) in order to prevent or deal with noise, vibration, pollution or other disturbance attributable to aircraft used for the purpose of civil aviation.

(5) Where directions given in pursuance of this section conflict with the requirements of any provision of this Act those requirements shall be disregarded and it shall be the duty of the Authority to comply with such directions and act in terms thereof.

13. (1) Subject to the provisions of this Act, the supervision, control and administration of the affairs and business of the Authority shall vest in the Authority.

Authority vested with supervision, control and administration of its affairs and business.

(2) The Authority may delegate to any member of the Authority or to any employee of the Authority Any of its powers, functions or duties.

(3) Every person referred to in subsection (2) shall exercise, discharge or perform the powers, functions or duties delegated to him subject to the direction and control of the Authority.

14. (1) It shall be the duty of the Authority to assume full responsibility for the efficient management of its airports and to provide all services and facilities as are in its opinion required, necessary or desirable for their safe and efficient operation.

The Authority's duties.

(2) Where the Minister so directs in writing it shall be the duty of the Authority to provide air navigation services at any airport.

(3) In giving effect to the provisions of subsections (1) and (2), the Authority shall have regard to the development of air transport and to efficiency, economy and safety of operation and shall act strictly in accordance with directions given by the Minister and under his control.

15. The Minister may in writing direct the Authority at any time to establish, acquire or assume the management of any aerodrome in any part of Sri Lanka as may be specified in the direction, and it shall be the duty of the Authority to comply with any such direction.

Minister may direct Authority to establish aerodromes.

16. The Authority shall not without the written consent of the Minister discontinue the use or divest itself of the management of any aerodrome.

Authority not to discontinue use of aerodromes.

17. The Authority shall not close temporarily for air traffic any aerodrome except with the written consent of the Minister or of the Director of Civil Aviation.

Temporary closure of aerodromes.

Authority to provide for consultation-

18. In the management and administration of any aerodrome the Authority shall provide for consultation with those whose interests may be affected and shall, in doing so, give effect to any directions given to it by the Minister.

Functions of Authority.

19. (1) Without prejudice to section 14 the Authority shall—

- (a) develop, administer, manage and control the airports and take adequate measures for the prevention of hijacking of aircrafts and against other acts of violence;
- (b) plan, develop, construct and maintain runways, taxiways, aprons, terminal and ancillary buildings and hangars as are necessary;
- (c) establish warehouses at the airports for the storage and processing of goods, including refrigeration and special handling;
- (d) establish warehouses for purposes of customs bonding and storage of goods and merchandise of every description that have been seized, confiscated or otherwise held by the Government;
- (e) provide facilities for the search of passengers' baggage and effects;
- (f) provide for postal, currency exchange, insurance, telephone and other communication facilities for the use of passengers and other persons at the airports ;
- (g) establish and maintain restaurants, cocktail bars and snack bars at the airports;
- (h) maintain rest-rooms, toilets and other facilities at the airports;
- (i) establish and maintain hotels near airports;
- (j) establish and maintain cinemas at or near airports for the use of bona fide passengers and guests ;
- (k) provide facilities for receiving, handling, storage or transshipment of passengers' baggage and effects;
- (l) provide facilities for receiving, handling and transshipment of cargo of every description;
- (m) provide security arrangements for the safety of passengers' baggage and cargo;
- (n) provide facilities, for quarantine of persons, animals and plants ;
- (o) make arrangements for passenger facilities at the airports, including florists, fruiterers, chemists, travellers' requisites, hair dressers, portorage and left luggage halls ;
- (p) provide full banking facilities ;
- (q) regulate and control the plying of vehicles and the entry into and exit from airports of passengers and visitors, having due regard to the protocol functions of the Government;
- (r) provide facilities for the reception and handling of special visitors;
- (s) provide necessary transport facilities for passengers travelling to or from the airports;
- (t) provide and maintain special areas for passengers, visitors to the airports, baggage and cargo ;
- (u) establish and manage duty-free areas for incoming and outgoing passengers and let rooms and areas for the setting up of sales outlets and for the storage of merchandise ;
- (v) establish and manage heliports ;
- (w) provide adequate facilities for the exercise of the regulatory powers of the Government, including customs, immigration, health and security checks or may by itself exercise such regulatory powers of customs, immigration and health, where the

Minister, with the concurrence of the Ministers in charge of the subjects of Customs, Immigration and Health, respectively, so directs;

- (x) provide accommodation for all persons engaged in performing regulatory functions of the Government;
- (y) provide adequate and efficient fire-fighting and safety equipment and personnel and carry out regular drills and exercises and other checks of all firearms and security equipment;
- (z) collect prescribed fees, rents and taxes.

(2) The Authority shall exercise and discharge the powers and functions set out in paragraphs (b), (v), (w) and (y) of subsection (1) strictly in accordance with directions given by the Minister and under his control.

20. The Authority shall in the event of an accident to aircraft or interference or damage to navigational aids immediately bring such matter to the notice of the Director of Civil Aviation and act only on his instructions. No attempt shall be made by the Authority to move the damaged aircraft or to effect repairs to it or to navigational aids except on written instructions from the Director of Civil Aviation.

21. (I) For the purpose of discharging its functions under this Act the Authority may—

- (a) acquire and hold any movable or immovable property and dispose of any movable or immovable property acquired or held by it so, however, that no such immovable property shall be so disposed of without the prior approval of the Minister;
- (b) approve or assent to or prohibit the construction of any building within the area of its authority, having due regard to safety to aircraft and

navigational facilities. The Authority may also having regard to the foregoing considerations order demolition or modification of any building within the area of its authority and, where such order is not complied with for a period of twenty-one days after notice in writing of such order has been given to the owner or occupier of the building, the Authority may demolish or modify such building;

- (c) approve or assent to or prohibit the use of any light or illumination on any building or premises, which in the opinion of such Authority constitutes a hazard to navigational facilities or to aircraft using any airport under its authority. The Authority may order the removal or modification of any existing light or illumination and remove or cause to be removed any light or illumination that is not so removed or modified ; provided that notice in writing of such order has been given to the occupier or owner of any building or premises by the Authority and the order has not been complied with for a period of seven days after such notice;
- (d) take all necessary steps to prevent unlawful interference with navigational aids and facilities and communication systems;
- (e) provide any services that may be required of the Authority to salvage any wreck at the cost of the person requesting such service and, whether requested or not, to remove any aircraft, vehicle, goods or persons from its airport after any accident, provided that the Authority shall be entitled to charge for such service according to prescribed rates. The powers herein described shall not be exercised except in consultation with the Director of Civil Aviation ;
- (f) sell by public auction or private arrangements in compliance with any rules and regulations in that

Duty in the event of an accident.

Powers of the Authority.

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- behalf any wreck or aircraft or vehicle or goods of any description or animal or plant or anything capable of being sold to reimburse itself for any damage caused to any property of the Authority or to recover any sum due from the owner thereof in terms of the preceding paragraph;
 - (g) determine the terms and conditions of employment of its officers and servants;
 - (h) appoint personnel to maintain order and security in airports;
 - (i) carry on all such financial, commercial, trading and other operations of business in connexion with the functions of the Authority as the Authority may think fit;
 - (j) train persons employed by the Authority;
 - (k) construct all buildings and obtain equipment necessary for the performance of its functions and duties,
 - (l) make provision for the repair and maintenance of all its buildings and equipment;
 - (m) maintain its airports to conform to international standards;
 - (n) establish a provident fund and provide welfare and recreational facilities for persons employed by the Authority;
 - (o) provide welfare and recreational facilities for staff of Government departments, corporations or institutions, engaged in discharging their duties within the airport;
 - (p) delegate to any officer of the Authority any such function of the Authority as the Authority may consider necessary so to delegate for the efficient transaction of business;
 - (q) enter into and perform all such contracts as may be necessary for the performance of the duties and the exercise of the powers of the Authority;
 - (r) make rules relating to—
 - (i) the appointment, promotion, transfer, remuneration, disciplinary control, conduct and the grant of leave to its officers and servants;
 - (ii) the administration of the affairs of the Authority ;
 - (s) do anything necessary for, or conducive or incidental to, carrying out the objectives of the Authority.
 - (2) The Authority shall exercise the powers or functions set out in subsection (1) only in consultation with the Minister.
- 22.** The Authority may—
- (1) with the prior approval of the Minister, charge fees or rent—
 - (a) for the landing, using or parking of aircraft or for any other service or facility offered in connexion with aircraft operation by any airport or heliport in its charge;
 - (b) for the use and enjoyment by persons of facilities and other services provided by the Authority at any airport or heliport;
 - (2) having regard to the instructions that the Minister may give to the Authority from time to time, charge fees or rent from persons who are afforded any facility for carrying on any business at any airport or heliport.
- 23.** The Authority shall have a lien against any aircraft vehicle or property in respect of which any service has been rendered.

Authority may charge fees or rent.

Authority to have lien.

Rules.

24. (1) The Authority may, in respect of any aerodrome owned or managed by it, make rules for regulating the use and operation of the aerodrome and the conduct of all persons, within the aerodrome, and for such other matters relating to the performance of its functions and in particular rules—

- (a) for securing the safety of aircraft, vehicles and persons using the aerodrome and preventing danger to the public arising from the use and operation of the aerodrome ;
- (b) for maintaining security in the aerodrome;
- (c) for preventing theft by persons employed at any aerodrome owned or managed by the Authority ;
- (d) for preventing theft from cargo areas designated by the Authority to be used wholly or mainly for the storage or handling of cargo in any aerodrome owned or managed by the Authority.
- (e) for preventing obstruction-within the aerodrome;
- (f) for regulating vehicular traffic anywhere within the aerodrome and in particular for imposing speed limits on vehicles therein and for restricting or regulating the parking of vehicles or their use for any purpose or in any manner as specified in the rules;
- (g) for prohibiting the parking of vehicles and carriages except at places appointed by the Authority ;
- (h) for prohibiting or restricting access to any part of the aerodrome ;
- (i) for preserving order within the aerodrome and preventing damage to property therein;
- (j) for regulating or restricting advertising within the aerodrome ;
- (k) for requiring any person, if so requested by an authorized person,

to leave the aerodrome or any particular part of it;

- (l) for restricting the area which is to be taken as constituting the aerodrome for the purpose of the rules ,
- (m) for the purpose of preventing danger to health from aircraft arriving at the airport or departing therefrom;
- (n) for dealing with lost property.

(2) No rule made by the Authority shall have effect until it is confirmed by the Minister and published in the Gazette.

PART IV

FINANCE

25. As soon as practicable after the coming into operation of this Act and from time to time thereafter there may be granted to the Authority by resolution of Parliament from the Consolidated Fund such sums of money and on such terms as may be determined by the Minister in charge of the subject of Finance in consultation with the Minister.

Grant to the Authority from the Consolidated Fund.

26. (1) The Authority shall have and maintain its own fund.

The Fund of the Authority.

(2) There shall be paid into the Fund of the Authority—

- (a) the annual embarkation tax received by the Authority as may be approved by the Minister;
- (b) all sums of money received by the Authority in the exercise, discharge and performance of its powers, functions and duties; and
- (c) all donations, gifts or grants from any source whatsoever.

(3) There shall be paid out of the Fund all sums of money required to defray any expenditure incurred by the Authority in the exercise, discharge and performance of its powers, functions and duties and all such sums of money as are required to be paid out of such Fund by or under this Act.

Borrowing powers of the Authority,

27. The Authority may, with the consent of the Minister in writing or in accordance with the terms of any general authority given by him, borrow by way of overdraft or otherwise, or negotiate or obtain on credit terms such sums as the Authority may require for meeting the obligations of the Authority, or for exercising, discharging and performing its powers, functions and duties under this Act:

Provided, however, that the aggregate of the amounts outstanding in respect of any loans raised by the Authority under this section shall not at any time exceed such amount as may be determined by the Minister.

Application of the provisions of the Public Corporations (Financial Control) Act.

28. The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and account, of the Authority.

Financial year of the Authority.

29. The financial year of the Authority shall be the period of twelve months commencing on the first day of January of each year.

PART V

STAFF

Staff of the Authority.

30. There may be appointed to the staff of the Authority such officers and servants as the Authority may deem necessary.

Notice required to be given by certain public officers of the Department of Civil Aviation before the appointed date.

31. (1) The provisions of this section shall, apply to every public officer, other than any public officer in a transferable service of the Government, who was employed in the Department of Civil Aviation on the day immediately before the appointed date and the functions of whose office have been vested in or taken over by the Authority.

(2) Every public officer to whom subsection (1) applies and who holds a post declared to be pensionable under the Minutes on Pensions shall, not less than two weeks before such date as may be fixed by the Minister by Order published in the Gazette (hereafter in this section and in section 32 referred to as the "relevant date"), give notice in writing to the Director

of Civil Aviation, that such public officer intends on that date—

- (a) to leave the public service and to become an employee under the Authority in terms of section 32 (1); or
- (b) to retire from the public service and to become an employee of the Authority in terms of section 32 (2); or
- (c) to retire from the public service and not obtain employment under the Authority.

(3) A notice given to the Director of Civil Aviation under subsection (2) before the relevant date by a public officer referred to in that subsection shall be final.

(4) Every notice given under paragraph (a) or (b) of subsection (2) shall be referred by the Director of Civil Aviation to the Authority. The acceptance of any such notice shall be entirely within the discretion of the Authority whose decision thereon shall be final.

32. (1) Any public officer referred to in subsection (1) of section 31 who gives notice under paragraph (a) of subsection (2) of that section before the relevant date and whose notice is accepted by the Authority shall be offered employment under the Authority with effect from that date, and—

Effect of notice under any of the paragraphs (a) to (c) of section 31 (2).

- (a) shall be subject to the same disciplinary control as any other member of the staff of the Authority during the period of his employment under the Authority ;
- (b) shall, subject to paragraph (a), be entitled to terms and conditions of service not less favourable as respects remuneration, leave, holiday warrants, and other conditions of service as he was entitled to immediately before the relevant date during the period of his employment under the Department of Civil Aviation ;
- (c) shall, so long as he is in the employ of the Authority, be deemed for the purpose of the Minutes on Pensions to continue to hold a post in the

public service which has been declared to be pensionable under the said Minutes and shall be eligible for the grant of a pension or gratuity as though his service under the Authority were service under the Government and the Minister in charge of the subject of Public Administration may grant such pension or gratuity in accordance with the terms of the said Minutes ;

the staff of the Authority is terminated by retirement on account of age or ill health or by the abolition of the office held by him on such staff or on any other ground approved by the Minister in charge of the subject of Public Administration; and

(d) in respect of him, the Authority shall pay out of the funds of the Authority to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund for every complete month of service during which he is in the employ of the Authority such sum of the salary received by him in the post he holds in the service of the Authority as the Minister in charge of the subject of Public Administration may determine;

(ii) in the event of his death after being appointed to the staff of the Authority in accordance with this section, such an award as might have been made in respect of him under those Minutes if he had died immediately before his appointment to the staff of the Authority may be made in respect of him.

(2) Any public officer referred to in subsection (2) of section 31 who gives notice under paragraph (b) of that subsection before the relevant date—

(e) shall, notwithstanding anything in the Widows' and Orphans' Pension Fund Ordinance, be deemed to be a public officer within the meaning of that Ordinance and for the purpose of the application of the provisions thereof so long as he remains in the employ of the Authority ; and

(a) shall be deemed to have retired from the public service on the relevant date;

(b) shall be offered employment by the Authority on such terms and conditions as may be agreed upon by such officer and the Authority ;

(f) may, at any time during the period of his employment under the Authority, opt to be appointed to the staff of the Authority in terms of subsection (2) hereof and when such option is exercised—

Provided, however, that such terms and conditions shall be not less favourable than the terms and conditions on which such officer was employed immediately before the relevant date;

(i) he shall be eligible for such an award under the Minutes on Pensions as might have been made to him if he had been retired from the public service on the ground of ill health on the date of his appointment to the staff of the Authority in accordance with this section ;- and the amount of any such award made under those Minutes shall not be paid to him unless his employment on

(c) shall be eligible for such pension or gratuity under the Minutes on Pensions as would have been awarded to him had he retired from the public service on the ground of abolition of office on that date ;

(d) if he is eligible for a pension and does not exercise the option under section 2A (1) (i) of the Minutes on Pensions, he shall not be paid the pension during the period of his employment under the Authority;

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(e) if he is eligible for a pension and elects to draw a gratuity in partial commutation of one-fourth part of his pension in accordance with the provisions of section 2A (1) (i) of the Minutes on Pensions—

- (i) such gratuity shall not be paid to him but shall be credited to his account in a provident fund of the Authority established under this Act;
- (ii) the remaining three-fourths part of the pension payable to him under the said Minutes shall not be paid to him during the period of his employment by the Authority; and
- (iii) for the purposes of the computation of the period of "ten years from the date of his retirement" referred to in section 2A (1) (ii) of the said Minutes, the date of his retirement shall be deemed to be the day following the last date of his employment under the Authority ; and

(f) if he is eligible for a gratuity and not a pension under the Minutes on Pensions such gratuity shall not be paid to him but shall be credited to his account in a provident fund of the Authority established under this Act.

(3) Any public officer referred to in subsection (2) of section 31 who gives notice under paragraph (c) of that subsection before the relevant date shall be deemed to have retired from the public service on that date and shall be eligible for such pension or gratuity under the Minutes on Pensions as would have been awarded to him had he retired from the public service on the ground of abolition of office on that date:

Provided, however, that if he is under a contract or agreement to serve the Government for a specified period of service he shall be liable to be called upon to pay such sum of money as may be determined by the Government in respect of the unfulfilled portion of such service.

(4) Any public officer whose notice under paragraph (a) or (b) of subsection (2) of section 31 is not accepted by the Authority shall be deemed to have retired from the public service on the relevant date and shall be eligible for such pension or gratuity under the Minutes on Pensions as would have been awarded to him had he retired from the public service on the ground of abolition of office on that date.

33. (1) At the request of the Authority any public officer, other than an officer to whom section 31 applies, may with the consent of the person who for the time being has the power to appoint such officer be temporarily appointed to the staff of the Authority for such period as may be determined by such Authority with like consent, or be permanently appointed to such staff.

Appointment of public officers, other than those to whom section 31 applies, to the staff of the Authority.

(2) Where a public officer is appointed temporarily to the staff of the Authority the provisions of subsections (3) and (5) of section 26 of the State Industrial Corporations Act, other than paragraph (a) of subsection (3) of section 26, shall, *mutatis mutandis*, apply to such officer.

(3) Where an officer is permanently appointed to the staff of the Authority the provisions of subsections (4) and (5) of section 26 of that Act shall apply to, and in relation to, such officer.

34. No civil or criminal proceeding shall be instituted against any member of the Authority or against any officer or servant of the Authority appointed for the purposes of this Act for any act which is in good faith done or purported to be done by him under this Act.

Protection of members, officers and servants of the Authority for action taken under this Act.

35. All members and employees of the Authority shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Members and employees of the Authority deemed to be public servants.

36. The Authority shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

Authority deemed to be a scheduled institution within the meaning of the Bribery Act.

PART VI

MISCELLANEOUS shall for the

Transfer of properly and rights and obligations to the Authority and modification of written law.

37. From and after the appointed date—

(a) all movable and immovable property of the State managed and controlled by the Director of Civil Aviation on the day immediately preceding the appointed date as may be declared by the Minister by Order published in the Gazette to vest in the Authority with effect from a date to be stipulated in such Order shall accordingly so vest;

(b) all contracts, rights, obligations and liabilities of the State or of the Director of Civil Aviation as may be declared by the Minister by Order published in the Gazette shall be deemed to be the contracts, rights, obligations and liabilities of the Authority.

(c) all written law shall be deemed to be modified to such extent as may be necessary to enable the Authority to exercise, discharge and perform the powers, functions and duties conferred on or assigned to or imposed on such Authority by or under this Act.

Effect of Minister's Order.

38. Where The Minister has made an Order in terms of section 37 no other authority shall unless specifically authorized to do so in terms of this Act exercise or purport to exercise any control or power over the airport in question.

Acquisition of land under the Land Acquisition Act for the Authority.

39. (1) Where any land, other than State land, is required for any of the purposes of the Authority and the Minister approves of the proposed acquisition, the land proposed to be acquired shall, for the purpose of the application of the Land Acquisition Act, be deemed to be required for a public purpose and may be acquired under that Act and transferred to the Authority.

(2) Any sum payable for the acquisition of land for the Authority under the Land Acquisition Act shall be paid by the Authority.

40. The Director of Civil Aviation and Director of officers and servants authorized by him shall be afforded access to any airport managed or controlled by the Authority.

41. (1) The Minister may make Regulations. regulations for the purpose of carrying out the provisions and giving effect to the principles of this Act.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all matters for which regulations are authorized or required to be made under this Act.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or upon such later date as may be specified in the regulation.

42. Every rule made by the Authority under section 24 and every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Every rule or regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but Without prejudice to anything previously done thereunder. Every rule or regulation so approved shall be as valid and effectual as though it were herein enacted.

43. Every person who contravenes or fails to comply with any of the provisions of this Act or any rule or regulation made thereunder shall be guilty of an offence and shall on conviction by a Magistrate be liable to a fine not exceeding five hundred rupees or to a term of imprisonment not exceeding six months or to both such fine and imprisonment.

44. In this Act, unless the context otherwise requires—

" aerodrome " means any area of land or water set apart and used or intended to be used for affording facilities for the arrival, departure and movement of aircraft of whatsoever description, including balloons, gliders and helicopters;

"aircraft" means all types of aircraft including aeroplanes, balloons, gliders and helicopters;

"air navigation services" mean and include navigational aids and navigational facilities;

"airport " means an aerodrome at which facilities are provided for the shelter, servicing or repair of aircraft, for receiving or discharging passengers or cargo and includes a heliport;

"air traffic control" means a service provided for the purpose of—

(a) preventing collisions—

(i) between aircraft, and

(ii) on the manoeuvring area between aircraft and obstructions; and

(b) expediting and maintaining an orderly flow of air traffic ;

"appointed date" means the 1st day of August, 1979;

"building" includes any structure or erection;

"heliport " means an area either at ground level or elevated on a structure used or intended to be used for the landing and take-off of helicopters;

"Minister" means the Minister in charge of the subject of Aviation ;

"navigational aids " mean visual and non-visual navigation aids along an air route, visual and non-visual aids to approach and landing at aerodromes, communication services, meteorological services and the air traffic control service ;

"navigational facilities" mean facilities provided to permit safe navigation of aircraft and includes visual and non-visual navigation aids;

"prescribed " means prescribed by regulation made under this Act.

CHAPTER 125

AUCTIONEERS AND BROKERS

Ordinances AN ORDINANCE TO PROVIDE FOR THE LICENSING OF AUCTIONEERS AND BROKERS.
 Nos. 15 of 1889,
 26 of 1909,
 18 of 1921,
 25 of 1922,
 17 of 1930,
 15 of 1945,

Act
 No. 39 of 1952.

[31st October, 1889.]

Short title. **1.** This Ordinance may be cited as the Auctioneers and Brokers Ordinance.

(b) in the case of any other area—

Auctioneers and brokers to be licensed.

2. (1) No person shall carry on the trade or business of an auctioneer or a broker in any area within the administrative limits of any local authority except under the authority of a licence issued by the Chairman under this Ordinance.

	Rs.	c.
Auctioneer and broker	60	0
Auctioneer	50	0
Broker	50	0

(2) Every licence issued under subsection (1) shall be in the form specified in the Schedule.

(2) Where the holder of a licence to carry on the trade or business of an auctioneer or broker within any area applies for a licence to carry on such trade or business for the same period in any other area, not being a municipality, the fee payable by such applicant for the licence shall be half the amount of the fee prescribed for that licence under subsection (1).

Duration, conditions, and licence.

3. Every such licence shall continue in force from the day on which it is granted till the thirty-first day of December next ensuing, and shall specify the conditions on which it is granted and the limits within which it may be used.

(3) All fees levied by any local authority by the issue of licences under this Ordinance shall be paid into the funds of that authority.

Fees.

4. (1) The Minister with the concurrence of the Minister in charge of the subject of Finance may prescribe for every local authority a scale of fees payable in respect of licences to carry on the trade or business of an auctioneer or of a broker or of auctioneer and broker:

5. (1) The Chairman may, for good reason to be assigned by him in writing, refuse to grant any such licence, and may in his discretion attach such conditions thereto as he may deem expedient, and may cancel such licence in the event of the breach of any such condition being proved to his satisfaction.

Chairman may refuse to issue licence and attach conditions and may cancel licence.

Provided, however, that the fees so prescribed shall not exceed the following limits:—

in the case of any municipality—

	Rs.	c.
Auctioneer and broker	250	0
Auctioneer	200	0
Broker	200	0

(2) Any person aggrieved by an order of the Chairman refusing to grant or cancelling a licence may appeal to the Minister, within seven days from the date of such order, and the decision of the Minister, shall be final and conclusive.

List of licensed auctioneers and brokers to be published.

6. The Chairman shall at the beginning of every month cause to be published in one or more of the local newspapers a list of the persons to whom licences shall have been granted by him during the preceding month; and if at any time he shall cancel any such licence and such cancellation shall not be set aside on appeal to the Minister, he shall publish in like manner as aforesaid the name of the person whose licence shall have been so cancelled.

public auction property, movable or immovable, of the aggregate value of fifty rupees and upwards; or

(b) to carry on trade, or business as a broker who does not at any time buy or sell for another, property, movable or immovable, of the aggregate value of fifty rupees and upwards.

Penalty for practising without licence.

7. Every person who shall carry on, or attempt or profess to carry on, trade or business as an auctioneer or as a broker either without having obtained or after he shall have been deprived of any such licence as aforesaid, shall be guilty of an offence, and shall be liable on a first conviction to a fine not exceeding one hundred rupees, and on every subsequent conviction to a fine not exceeding five hundred rupees.

9. In this Ordinance, unless the context interpretation otherwise requires—

" Chairman "—

(a) in relation to any Municipal Council, means the Mayor of that Council,

(b) in relation to any other local authority, means the Chairman of that local authority;

Scope of the expressions auctioneer, and broker.

8. For the purposes of this Ordinance no person shall be deemed—

(a) to carry on trade or business as an auctioneer who does not sell at any

" local authority " includes any Municipal Council, Urban Council, Town Council or Village Council.

SCHEDULE

[Section 2.]

FORM OF LICENCE TO PRACTISE AS AN AUCTIONEER OR BROKER

I, Mayor/Chairman of the of do hereby authorize of aforesaid, to carry on trade or business as an Auctioneer (or as a Broker) within the limits of the

This licence expires on the 31st day of December, 19..... and is issued subject to the conditions on the back thereof. Any breach of the said conditions involves the cancellation of the licence.

Mayor/Chairman.

The.....day of.....19.....

CHAPTER 487

AUTOMOBILE ASSOCIATION OF CEYLON

Act
No. 19 of 1957.

AN ACT TO INCORPORATE THE AUTOMOBILE ASSOCIATION OF CEYLON.

[28th March, 1957.]

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|--|---|--|--|
| Short title. | 1. This Act may be cited as the Automobile Association of Ceylon (Incorporation) Act. | 4. The committee administering the affairs of the corporation shall cause a register of members of the corporation to be kept. There shall be inscribed in such register the name of every person who, at the date of the coming into operation of this Act, is a member of the association and the name of every person who is thereafter duly enrolled as a member of the association. | Register of members. |
| Incorporation of the Automobile Association of Ceylon. | 2. The persons who, at the time of the coming into operation of this Act, are members of the Automobile Association of Ceylon (hereinafter referred to as "the association") and such other persons as are hereafter enrolled as members of the association shall be a body corporate (hereinafter referred to as "the corporation") with perpetual succession and a common seal and the name "The Automobile Association of Ceylon". The corporation may sue and be sued by that name. | 5. (1) The corporation may, from time to time, at any general meeting of the members and by a majority of votes, make such rules as it may deem expedient for the management of the affairs of the corporation and the accomplishment of its objects. | Rules of the corporation. |
| Objects of the corporation, | 3. The objects of the corporation shall be. | (2) Any rule of the corporation may be amended or rescinded in like manner as a rule may be made under subsection (1). | |
| | (a) to encourage and maintain an active interest in motoring in Sri Lanka and to protect and advance the legitimate interests of motorists and aviators, the motor and aviation industries and owners and users of all forms of mechanically propelled vehicles on land or water or in the air and any industry connected therewith, | (3) The articles of the association in force when this Act comes into operation shall be deemed to be the rules of the corporation made under this section and may accordingly be amended or rescinded and be replaced by new rules so made. | |
| | (b) to assist in the enforcement of the laws affecting highways and the users thereof, | (4) The members of the corporation shall be subject to the rules of the corporation. | |
| | (c) to secure equitable administration of matters affecting the rights of motorists and the enforcement of laws affecting all road users, and | 6. All debts and liabilities of the association existing at the time of the coming into operation of this Act shall be paid and discharged by the corporation, and all debts, subscriptions, contributions, and fines due or payable to the association shall be paid to the corporation. | Sums payable by or to the association to be paid by or to the corporation. |
| | (d) to watch all proposed legislation in any way bearing upon the interests of motorists and to secure, as far as practicable, that the principles involved therein shall be equitable alike to motorists and the other members of the public- | 7. The seal of the corporation may be altered at the pleasure of the corporation. It shall not be affixed to any instrument whatsoever except by the authority of a resolution of the committee administering | Seal of the corporation. |

the affairs of the corporation and in the presence of two members of that committee, or one member of that committee and the secretary of the corporation, who shall sign their names on the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

The corporation may acquire, hold and dispose of property, and borrow money.

8. The corporation—

- (a) may acquire and hold any movable or immovable property by right of purchase, grant, gift, testamentary disposition or otherwise,
- (b) shall hold any property subject to the rules of the corporation,
- (c) may sell, mortgage, lease, exchange or otherwise dispose of any of its properties, and
- (d) borrow money for the purposes of the corporation.

Application of income and property of the corporation.

9. The income and property of the corporation shall be applied solely towards the promotion of the objects of the corporation and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise by way of profit, to the members of the corporation:

Provided that nothing in the preceding provisions of this section shall prevent—

- (a) the payment of reasonable and proper remuneration to any officer or servant of the corporation who is not a member of the committee administering the affairs of the corporation, or to any member of the corporation who is not a member of such committee for any services rendered to the corporation,
- (b) the payment of interest at a rate not exceeding five *per centum* per annum on money lent, or reasonable and proper rent for

premises let, by any member to the corporation, and

- (c) the payment, with the consent of seventy-five *per centum* of the members of such committee, to any member of such committee, or to any company or firm of which any member of such committee is a member or partner, for any work or services done or rendered for or to the corporation.

10. If upon the dissolution of the corporation there remains, after the satisfaction of all its debts and liabilities, any property (including money), such property shall not be distributed among the members of the corporation, but shall be transferred to some other institution or institutions which has or have objects similar to the objects of the corporation and which is or are by rules or articles of association or otherwise prohibited from distributing its or their income and property amongst its or their members to an extent at least as great as is imposed on the corporation by this Act. Such institution or institutions shall be determined by the members of the corporation at or before the time of the dissolution of the corporation or, in default thereof, by a court within the local limits of whose civil jurisdiction the whole or any part of such property is held or situate. If such property or any part thereof cannot be disposed of in accordance with the provisions of this section, such property or part shall be applied to some charitable object.

Disposal of property of the corporation left after the payment of debts upon dissolution of the corporation.

11. No member of the corporation shall, for the purpose of discharging the debts and liabilities of the corporation, be liable to make any contribution exceeding the amount of such annual subscriptions as may be due from him to the corporation and an additional sum of not more than one rupee.

Liability of members of the corporation.

12. Nothing in this Act shall prejudice or affect the rights of the Republic, or of any body corporate, or of any other persons, except such as are mentioned in this Act and those claiming from or under them.

Saving of the rights of the Republic and others.

CHAPTER 413

ANURADHAPURA BUDDHIST ASSOCIATION

Act No. 11 of 1952. AN ACT TO INCORPORATE THE ANURADHAPURA BUDDHIST ASSOCIATION, ANURADHAPURA.

[8th March. 1952.]

Short title. **1.** This Act may be cited as the Anuradhapura Buddhist Association, Anuradhapura, Act.

(2) All members of the corporation shall be subject to the rules in force for the time being of the corporation.

Incorporation of the Anuradhapura Buddhist Association, Anuradhapura. **2.** From and after the passing of this Act the president, vice-presidents, and members of the committee of management for the time being of the Anuradhapura Buddhist Association, Anuradhapura, and such and so many persons as now are members of the said Anuradhapura Buddhist Association, Anuradhapura, or shall hereafter be admitted members of the association are hereby constituted and shall be a corporation with perpetual succession under the style and name of "The Anuradhapura Buddhist Association, Anuradhapura" and by that name may sue and be sued in all courts, with full power and authority to have and use a common seal and alter the same at their pleasure.

(3) The first committee of management shall consist of D. C. R. Gunawardene, Esq.; M. Senanayake, Esq.; G. Dahanayake, Esq.; L. H. Illangantillaka, Esq.; T. B. Weerakone, Esq.; J. Ramanayake, Esq.; E. M. C. Ekanayaka, Esq.; M. Jayasingha, Esq.; K. B. Ratnayake, Esq.; K. S. de Abrew, Esq.; H. B. Samarakoon, Esq.; T. B. Galgamuwa, Esq.; G. Wanasundara, Esq.; A. M. P. B. Tummodera, Esq.; S. Godage, Esq.; W. J. Femando, Esq.

General objects of the corporation. **3.** The general objects for which the corporation is constituted are hereby declared to be—

- (a) the study and propagation of Buddhism,
- (b) the encouragement of the practical observance of Buddhism, and
- (c) the promotion of unity and co-operation among Buddhists.

5. It shall be lawful for the corporation from time to time at any general meeting of the members, and by a majority of votes to make rules for the admission, withdrawal or expulsion of members; for the conduct of the duties of the committee of management and of the various officers, agents, and servants of the corporation; for the procedure to be observed in the transaction of business; and otherwise generally for the management of the affairs of the corporation and the accomplishment of its objects. Such rules when made may, at a like meeting, be altered, added to, amended, or rescinded subject, however, to the requirements of section 7. Power to make rules-

Committee of management. **4.** (1) The affairs of the corporation shall, subject to the rules in force for the time being of the corporation as hereinafter provided, be administered by a committee of management consisting of the president, three vice-presidents, the honorary general secretary, honorary assistant general secretary, and honorary treasurer respectively of the corporation and not less than nine other members, to be elected respectively in accordance with rules for the time being of the corporation.

6. Subject to the provisions of section 5, the rules set out in the Schedule* to this Act shall for all purposes be the rules of the corporation: Rules in the Schedule* to be the rules of the corporation.

Provided, however, that nothing in this section contained shall be construed to prevent the corporation at all times hereafter from making fresh rules, or from altering, amending, adding to, or rescinding any of the rules set out in that Schedule* or any rules hereafter made by the corporation.

* Schedule omitted.—Private enactment.

Procedure for amendment of rules.

7. No rule in the Schedule* to this Act nor any rule hereafter passed at a general meeting shall be altered, added to, amended or rescinded, except with the prior approval of the committee of management and by a vote of two-thirds of the members present at a general meeting of the corporation.

and all debts due to and subscriptions and contributions payable to the said Anuradhapura Buddhist Association, Anuradhapura, shall be paid to the said corporation for the purpose of this Act.

Property vested in corporation.

8. On the coming into operation of this Act all property belonging to the said Anuradhapura Buddhist Association, Anuradhapura, whether held in the name of the said Anuradhapura Buddhist Association, Anuradhapura, or in the name or in the names of any person or persons in trust for the said Anuradhapura Buddhist Association, Anuradhapura, is hereby vested in the corporation hereby constituted, and the same, together with all after-acquired property, both movable and immovable, and all subscriptions, contributions, donations, amounts of loan, and advances received or to be received, shall be held by the said corporation for the purpose of this Act and subject to the rules in force for the time being of the said corporation.

10. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of two of the members of the committee of management, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

How the seal of the corporation is to be affixed.

11. The corporation shall be capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the corporation for the purpose of this Act and subject to the rules for the time being of the said corporation, with full power to sell, mortgage, lease, exchange, or otherwise dispose of the same.

Corporation may hold property, movable and immovable.

Debts due to and payable to the association.

9. All debts and liabilities of the said Anuradhapura Buddhist Association, Anuradhapura, existing at the time of the coming into operation of this Act shall be paid by the corporation hereby constituted,

12. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

* Schedule omitted.—Private enactment.

CHAPTER 270

AGRICULTURAL CORPS

Ordinance No. 60 of 1946. AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT, MANAGEMENT AND CONTROL OF AN AGRICULTURAL CORPS AND FOR OTHER MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[24 th February. 1946.]

Short title. 1. This Ordinance may be cited as the Agricultural Corps Ordinance.

(2) Every unit shall consist of officers and other ranks of the several grades specified in the Schedule, the strength of each such grade not exceeding such number as may be prescribed.

Establishment of the Agricultural Corps. 2. There shall be established a body to be called and known as the Agricultural Corps.

(3) The power to appoint the officers and to select and enrol other ranks of each unit shall, subject to such regulations as may be made in that behalf, be vested in the Commissioner.

Constitution of the corps.. 3. The corps shall consist of—
(a) a supervising staff, and
(b) officers and men not exceeding such numbers as the Minister may from time to time determine.

(4) Every officer or man appointed to or enrolled in a unit under this section is hereinafter referred to as a " member of a unit".

Supervising staff. 4. The supervising staff shall consist of a Commissioner and such number of Assistant Commissioners and accountant officers as the Minister may from time to time determine.

8. Every member of a unit shall be entitled to receive the prescribed pay and allowances and the prescribed uniforms, badges and rations of food. All such payments and the cost of the uniforms, badges and rations of food shall be met out of funds provided for the purpose by Parliament.

Members of units to receive pay, uniform, badges and rations of food.

Members of supervising staff to be public servants. 5. Every member of the supervising staff shall be deemed to be a public officer or a public servant for all purposes.

Functions of members of the supervising staff. 6. (1) Subject to the general direction and control of the Minister, the Commissioner shall be responsible for the administration and management of the corps.

9. It shall be the duty of every member of a unit to perform such duties and discharge such functions as may be prescribed by regulation or be assigned to him by or under the authority of the Commissioner in any case where no such regulation has been made.

Duties of a member of a unit.

(2) The Assistant Commissioners and accountant officers shall exercise, perform or discharge such powers, duties or functions as may, subject to any direction of the Minister, be assigned to them by the Commissioner.

10. The Minister may by Order published in the Gazette—

Disbanding of the corps or reduction of the numbers of the corps.

Units of the corps to consist of officers and other ranks. 7. (1) The corps shall consist of such number of units as the Commissioner may from time to time determine.

(a) disband the corps, or
(b) reduce the numbers of the corps.

Resignation of members of units.

11. Except with the special permission of the Commissioner, no member of a unit shall be entitled to resign from the corps unless he has given, not less than one month before the date on which he desires to resign, notice in writing to the Commissioner of his intention to resign.

(c) deserts service in the corps ; or

(d) on leaving the corps fails or refuses to return the uniforms and badges issued to him,

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

Discharge or dismissal of members.

12. (1) The Commissioner may, after giving to any member of a unit such notice as may be prescribed, discharge that member from the corps in any case where—

(a) effect has to be given to any Order of the Minister whereby the numbers of the corps are reduced ; or

(b) the Commissioner is satisfied that the member has become unfit for service by reason of ill health or any physical disability.

(2) The Commissioner may dismiss any member of a unit from the corps, after an inquiry in accordance with the provisions of the Public Service Commission Rules applicable to public officers of the same class or grade as that member or in receipt of a salary equal to the pay of that member, if in the opinion of the Commissioner or the person so authorized—

(a) that member—

(i) fails to discharge his duties satisfactorily, or

(ii) acts or conducts himself in a manner likely to be detrimental to good order or discipline in the corps ; or

(b) it is not desirable that that member should continue to be a member of the corps.

14. (1) The Commissioner may, with the approval of the Minister, make such standing orders as he may deem necessary for the administration and management of, and for the maintenance of discipline within, the corps.

Power of Commissioner to make standing orders and inflict punishments.

(2) Where any member of a unit contravenes a standing order made by the Commissioner for the maintenance of discipline within the corps, the Commissioner, or any person authorized by him in writing, may direct that the pay of that member for a period not exceeding seven days commencing on the day of the sentence shall be forfeited.

15. (1) The Minister may make regulations for carrying out or giving effect to the principles and provisions of this Ordinance.

Regulations.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1) such regulations may—

(a) provide for any matter which is in this Ordinance stated or required to be prescribed;

(b) prescribe the conditions relating to the appointment, enlistment, service and discharge of the members of a unit;

(c) prescribe the functions and duties of such members;

(d) prescribe the conditions relating to the grant of leave to such members ;

Offences and penalties.

13. Every member of a unit who—

(a) neglects or refuses to obey any order or direction given or issued to him by or under the authority of the Commissioner for the purposes of this Ordinance or any regulation made thereunder;

(b) causes or creates any disorder within the corps;

(e) prescribe the kinds of uniforms and badges to be worn by the supervising staff, and the officers and members of the units, and provide for the use, care and return of such uniforms or badges.

(3) Every regulation made under subsection (1) shall be published in the Gazette, and shall come into operation upon such publication.

(4) Every regulation made under subsection (!) shall be brought before Parliament within a period of one month from the date of publication of that regulation under subsection (3), or if no meeting of Parliament is held within that period, at the first meeting of Parliament after the ("piry of that period by a motion that such regulation shall be approved.

(5) Any regulation which Parliament refuses to approve shall be deemed to be rescinded but without prejudice to the validity of anything previously done thereunder or to the making of any new regulation. The date on which a rei'ulaaion shall be so deemed to be rescinded shall be the date on which Parliament refuses to approve the regulation.

16. In this Ordinance, unless the context interpretation. otherwise requires—

" Commissioner " means the Commissioner for the time being in charge of the Agricultural Corps;

" corps " means the Agricultural Corps established under section 2 ;

" unit " means a unit of the corps.

[Section7.]

SCHEDULE

The officers and other ranks constituting a unit shall be of the following grades;

1, Officers-

- Superintendent.
- Officer-In-Charge,
- Chief Ins.penor,
- Senior Inspector,
- Inspector.

2. Other ranks-

- Overseer,
- Sevaka.

CHAPTER 398

ALL CEYLON BUDDHIST CONGRESS

Act No. 24 of 1955. AN ACT TO INCORPORATE THE ALL CEYLON BUDDHIST CONGRESS.

[16th April, 1955.]

Short title. **1.** This Act may be cited as the All Ceylon Buddhist Congress Act.

Incorporation of the All Ceylon Buddhist Congress. **2.** The members for the time being of the association known as the All Ceylon Buddhist Congress (hereinafter referred to as "the congress") shall be a body corporate (hereinafter referred to as "the corporation") with perpetual succession, a common seal, and the name "The All Ceylon Buddhist Congress". The corporation may sue and be sued in such name.

General objects of the corporation. **3.** The general objects of the corporation shall be—

- (a) to promote, foster and protect the interests of Buddhism and of the Buddhists and to safeguard the rights and privileges of the Buddhists;
- (b) to promote co-operation among Buddhists and Buddhist associations;
- (c) to represent the Buddhists and act on their behalf in public matters affecting their interests;
- (d) to provide opportunity to the Buddhists for the free discussion of any matters affecting their interests;
- (e) to undertake Buddhist charitable activities; and
- (f) to do all such things as may be necessary or conducive to the interests or benefit of the Buddhists or to the attainment of the abovementioned objects or any of them.

4. (1) The affairs of the corporation shall, subject to the rules for the time being of the corporation, be administered by an executive committee which shall consist of the office-bearers of the corporation, the representatives of the group members of the corporation, the office-bearers of the standing committees and one hundred other members elected at the annual general meeting of the corporation:

The affairs of the corporation to be administered by an executive committee.

Provided, however, that not less than sixty of the members so elected shall be members of the corporation of at least three years' standing.

(2) The executive committee may delegate any of its functions to one or more standing committees or sub-committees.

5. (1) The secretaries of the corporation shall keep a register of the members of the corporation.

Register of members

(2) The register of the members of the corporation shall contain the following particulars:—

- (a) In the case of group members of the corporation—
 - (i) the name and full postal address of each association which is a group member;
 - (ii) the date of inception of such association;
 - (iii) the date on which the first annual general meeting of such association was held;
 - (iv) the date on which such association was enrolled as a group member; and

(v) the date on which such association ceased to be a group member:

Provided, however, that in the case of group members existing at the commencement of this Act, the requirements of preceding sub-paragraphs (ii), (iii) and (iv) may be dispensed with.

(b) In the case of ordinary or life-members of the corporation who were enrolled under the rules of the congress in force before the commencement of this Act—

- (i) the name, full postal address, rank or occupation or profession of each such member;
- (ii) the period of membership completed by such member at the date of the commencement of this Act; and
- (iii) the date on which such member ceased to be a member.

(c) In the case of sustaining members or honorary life-members of the corporation—

- (i) the name, full postal address and rank, profession or occupation of each such member;
- (ii) the date on which such member was enrolled as a member; and
- (iii) the date on which such member ceased to be a member.

Rules.

6. (1) The corporation may, by a vote of two-thirds of the members present and voting at a general meeting of the corporation, make rules for admission to, and removal from, membership of the corporation, for the performance of the duties of the office-bearers and other members of the executive committee of the corporation, for the procedure in the

* Schedule omitted.—Private enactment.

transaction of business, and otherwise generally for the management of the affairs of the corporation and the accomplishment of its objects.

(2) Any rule of the corporation may be amended or rescinded by a vote of two-thirds of the members present and voting at a general meeting of the corporation.

(3) Subject to the provisions of subsections (1) and (2) of this section, the rules set out in the Schedule* to this Act shall be the rules of the corporation.

7. All debts of the congress existing at the commencement of this Act shall be paid by the corporation and all debts due and fees, subscriptions and grants payable to the congress shall be paid to the corporation.

Liabilities of and debts due to the congress.

8. The corporation may acquire and hold any movable or immovable property by right of purchase, grant, gift, testamentary disposition or otherwise and, subject to the rules for the time being of the corporation, may sell, mortgage, lease, exchange or otherwise dispose of any movable or immovable property of the corporation.

The corporation may hold property.

9. The seal of the corporation may be altered at the pleasure of the corporation. The seal shall not be affixed to any instrument whatsoever except in the presence of two office-bearers of the corporation one of whom shall be the president or in his absence a vice-president, who shall sign their names on the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

Seal of the corporation and the procedure for affixing it.

10. Any one of the secretaries of the corporation who is authorized for the purpose by the executive committee of the corporation shall have custody of the seal of the corporation.

Custody of the seal of the corporation.

11. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other person, except such as are mentioned in this Act and those claiming by, from or under them.

Saving of the rights of the Republic &c.

CHAPTER 421

ALL CEYLON BUDDHIST STUDENTS' FEDERATION

Law No. 44 of 1975. A LAW TO INCORPORATE THE ALL CEYLON BUDDHIST STUDENTS' FEDERATION.

[5th December, 1975.]

Short title. 1. This Law may be cited as the All Ceylon Buddhist Students' Federation (Incorporation) Law.

Incorporation of the All Ceylon Buddhist Students' Federation. 2. The persons who, at the time of the coming into operation of this Law, are members of the All Ceylon Buddhist Students' Federation (hereinafter referred to as the "Federation") and such other persons as are hereafter enrolled as members of the Federation shall be a body corporate (hereinafter referred to as the "Corporation") with perpetual succession, a common seal and the name of "The All Ceylon Buddhist Students' Federation". The Corporation may sue and be sued in such name and shall have full power and authority to have and use a common seal and alter the same at their pleasure.

General objects of the Corporation. 3. The general objects for which the Corporation is constituted are hereby declared to be

- (a) to promote mutual understanding and co-operation among Buddhist students;
- (b) to improve the facilities available to Buddhist students for studying the dhamma, for observing Buddhist principles and for the propagation of the Buddha dhamma;
- (c) to train Buddhist students to do valuable service to the country in the fields of religion and social services;
- (d) to advance the moral, cultural and social welfare of Buddhist students ;
- (e) to establish an international Buddhist Students Organisation and thereby

foster better understanding among nations;

- (f) to promote the interests of Buddhism;
- (g) to work in unison for the attainment of the rights and privileges of Buddhist students.

4. (1) The affairs of the Corporation shall, subject to the rules for the time being of the Corporation, be administered by a Working Committee consisting of the President, five Vice-Presidents, the General Secretary, three Assistant Secretaries, the Senior Treasurer, the Junior Treasurer and ten ordinary members to be elected in accordance with the rules for the time being of the Corporation.

Working Committee, Board of Trustees and Board of Governors.

(2) The first Working Committee of the Corporation shall consist of the following:—

- (a) Office-bearers :—
 - (1) Mr. Sarath Samarage, President.
 - (2) Mr. M. P. Muthukuda Aratchi, Vice-President.
 - (3) Miss Sumithra de Zoysa, Vice-President.
 - (4) Mr. Vipula Chandradasa, Vice-President.
 - (5) Mr. Prasanna de Silva, Vice-President.
 - (6) Mr. Asoka Amarasekera, Vice-President.
 - (7) Miss Suncetha Perera, General Secretary.
 - (8) Mr. Anura Hegoda, Assistant Secretary.
 - (9) Mr. Jayantha Wickremasinghe, Assistant Secretary.
 - (10) Miss Visaka Lewliyadde, Assistant Secretary.
 - (11) Mr. Godwin Ratnayake, Senior Treasurer.
 - (12) Mr. P. Ratnaweera, Junior Treasurer.

(b) Members of the Working Committee:—

- (1) Miss Badhra de Silva.
- (2) Mr. Mihira Perera.
- (3) Miss Anula Edirisinghe.
- (4) Mr. Nihal Feraando.
- (5) Mr. Sarath Perera.
- (6) Miss Nirmaleeni Gunawardena.
- (7) Mr. Upali Hettiaratchi.
- (8) Mr. Cyril Baddegama.
- (9) Mr. Sujeewa Alwis.
- (10) Mr. Henry Senanayake.

(3) There shall be a Board of Trustees of the Corporation and the first Board of Trustees shall consist of the following:—

- (1) Dr. P. R. Anthonis.
- (2) Dr. W. F. Jayasuriya.
- (3) Mr. R. G. O. Gunasekera.

(4) There shall be a Board of Governors of the Corporation and the first Board of Governors shall consist of the following:—

- (1) The person for the time being holding the office of the Director-General of Education.
- (2) The person for the time being holding the office of the Director of Cultural Affairs.
- (3) Dr. W. F. Jayasuriya.
- (4) Mr. Bogoda Premaratne.
- (5) Mr. D. G. Welikala.
- (6) Dr. Mrs. T. Kariyawasam.
- (7) Mr. S. Panditharatna (Principal, Thurstan College).
- (8) Mrs. Hema Jayasinghe (Principal, Visakha Vidyalaya).
- (9) Mrs. S. Premaratne.

5. The rules of the Federation in force at the time this Law comes into operation shall for all purposes be the rules of the Corporation:

Provided, however, that nothing in this section contained shall be held or construed to prevent the Corporation at all times hereafter at a general meeting of the Corporation and by a majority of two-thirds of the members present and entitled to vote from making new rules or from altering, amending or adding to the existing rules or to rules which are hereafter made by the Corporation and the rules in force under this Law at any time shall be the rules so added to, replaced or amended up to that time.

6. All debts and liabilities of the said All Ceylon Buddhist Students' Federation, existing at the time of the coming into operation of this Law shall be paid by the Corporation hereby constituted, and all debts due to and subscriptions and contributions payable to the said Federation shall be paid to the said Corporation for the purposes of this Law.

Liabilities of, and debts due to, the Federation.

7. The Corporation may acquire and hold any movable or immovable property by right of purchase, grant, gift, testamentary disposition, or otherwise, and subject to the rules for the time being of the Corporation, may sell, mortgage, lease, exchange or otherwise dispose of any movable or immovable property of the Corporation.

Corporation may hold property.

8. Nothing in this Law contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other person, except such as are mentioned in this Law, and those claiming by, from or under them.

Savings of the rights of the Republic and others.

Rules

CHAPTER 469

ARTS COUNCIL OF CEYLON

Act AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND REGULATION OF THE ARTS
 No. 18 of 1952. COUNCIL OF CEYLON.

[24th March, 1952.]

Short title. **1.** This Act may be cited as the Arts Council of Ceylon Act.

thousand rupees for the purpose of defraying the preliminary expenses of the council under this Act and of providing the working capital of the council.

ESTABLISHMENT AND POWERS OF THE COUNCIL AND CAPITAL

Establishment and general objects of the council. **2.** (1) An institution to be called the Arts Council of Ceylon (hereinafter referred to as " the council ") is hereby established.

5. The council shall have power to acquire in any manner whatsoever any property movable or immovable, and to hold and enjoy the property so acquired. Power to acquire and hold property.

(2) The general objects for which the council is constituted are hereby declared to be—

6. All property movable and immovable acquired or held by the council and all moneys paid to or received by the council under this Act shall be used and applied by the council in furtherance of its objects ; and the council shall have power, from time to time, to sell, grant, convey, devise, assign, exchange or otherwise dispose of or mortgage any such property, and to invest its funds in such manner as may be necessary and expedient for the furtherance of its objects. Application of property moneys, &c.

(a) to develop a greater knowledge, understanding and practice of the fine arts;

(b) to increase the accessibility of works of art to the public in Sri Lanka;

(c) to improve the standards of execution in the fine arts ;

(d) to preserve, promote and encourage the development of such arts and crafts as are indigenous to Sri Lanka; and

(e) to advise, and co-operate with, Government departments, local authorities and other bodies on any matter concerned directly or indirectly with the aforesaid objects,

THE COUNCIL

7. The council shall consist of the following members:— Constitution of the council.

(a) five persons, two of whom shall respectively be designated president and vice-president of the council, appointed as such by the Minister in consultation with the Minister in charge of the subject of Education; and

(b) every person for the time being holding office as chairman of any panel constituted in accordance with the provisions of section 12, if such person is not already a member of the council.

Council to be a body corporate. **3.** The council shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its name.

Contribution to the council by Government. **4.** As soon as convenient after the date on which this Act comes into operation, the Government shall make an initial contribution of two hundred and fifty

Term of office of members.

8. (1) Every member of the council appointed under paragraph (a) of section 7 shall unless he earlier vacates office by death or as hereinafter provided hold office for a period of three years.

(2) Any such member who vacates office by effluxion of time shall be eligible for reappointment.

Vacation of office.

9. A member of the council shall vacate office as such—

- (a) if his membership is terminated by order made by the Minister in consultation with the Minister in charge of the subject of Education; or
- (b) if he accepts or holds the office of auditor of the council; or
- (c) if he is adjudged by a competent court to be of unsound mind ; or
- (d) if he is adjudged by a competent court to be an insolvent or bankrupt or if he compounds with his creditors; or
- (e) if he has directly or indirectly interest in any contract with the council; or
- (f) if he resigns office by writing under his hand addressed to the Minister.

Meetings of the council,

10. (1) A meeting of the council shall be held once at least in every three months.

(2) The president, or in his absence the vice-president, of the council, shall preside at every meeting of the council, and may, with the consent of the majority of the members present at any such meeting, whether or not there is a quorum, adjourn such meeting from time to time and from place to place.

(3) The president of the council may of his own motion cause a meeting of the council to be summoned at any time, and shall do so upon a request in writing made in that behalf by the executive committee or of any five or more members of the council.

(4) Any question arising at any meeting of the council shall be decided by a majority of the members present, and in the case of an equality of votes, the president or in his absence, the vice-president of the council shall have a second or casting vote.

(5) Except as otherwise provided in this section, no business shall be transacted at any meeting of the council unless there be present in person at least seven members of the council.

(6) Subject to the preceding provisions of this section, the council may make rules relating to the procedure to be followed at its meetings and to the conduct of its functions and activities.

EXECUTIVE COMMITTEE OF THE COUNCIL

11. (1) The council shall appoint from amongst its members an executive committee consisting of the president, vice-president and not more than three other members.

The executive committee of the council.

(2) A member of the executive committee shall vacate his office as such—

- (a) if his membership is terminated by order of the council; or
- (b) if for any other reason he ceases to be a member thereof.

(3) The executive committee shall exercise all the powers of the council except such as the council may specifically reserve to itself.

(4) A meeting of the executive committee shall be held at least once in every month and any such meeting may with the consent of the members present, whether there is a quorum or not, be adjourned from time to time and from place to place.

(5) The executive committee shall be presided over by the president, or in his absence the vice-president of the council, or if neither the president nor the vice-president is present, by some other member chosen to preside by the other members present at the meeting.

(6) Except as otherwise provided in this section no business shall be transacted at any meeting of the executive committee unless there be present in person at least three members.

(7) Where the president at any meeting of the executive committee is of the opinion that any matter before such committee—

- (a) is of exceptional novelty or importance or is likely to lead to considerable expense, or
- (b) gives rise, or is likely to give rise, to a serious difference of opinion among the members of such committee, or
- (c) gives rise, or is likely to give rise, to criticism or opposition on the part of a responsible section of public opinion,

he shall refer such matter to the council with a view to obtaining further instructions thereon.

(8) Subject to the provisions of this section, rules may be made by the council relating to the procedure to be followed at meetings of the executive committee.

APPOINTMENT OF PANELS

Appointment of panels.

12. (1) The five members of the council appointed under paragraph (a) of section 7 may appoint panels, each consisting of such persons as the council may think fit, for the purpose of advising and assisting the council on the general advancement of each of the following activities;—

- (a) Dancing—Oriental and Western;
- (b) Kandyan Dancing;
- (c) Painting and Sculpture;
- (d) Oriental Music;
- (e) Western Music;
- (f) Sinhala Drama;
- (g) Tamil Drama;
- (h) Western Drama;
- (i) Handicrafts;
- (j) any such other activity in respect of which a panel is considered necessary.

(2) A member of the council appointed under paragraph (a) of section 7 shall be eligible for appointment to any panel constituted under this section.

(3) The members of the council appointed under paragraph (a) of section 7 shall appoint a member of each panel constituted under this section as chairman of that panel.

(4) The council shall have the power to revoke the appointment of any panel appointed under the preceding subsections or of any member thereof.

STAFF OF THE COUNCIL

13. (1) The council may, subject to the approval of the Minister and the Minister in charge of the subject of Education, appoint a general secretary who shall be the chief executive officer of the council.

Appointment of officers and servants.

(2) The council may appoint such other officers and such servants as the council considers necessary for carrying out its objects.

(3) The remuneration and conditions of service of the officers and servants of the council shall be such as may be determined by the council with the approval of the Minister.

FINANCE, ACCOUNTS, MINUTES

14. The sum paid to the council under section 4 and all the money received by the council by way of income, grant, gift or otherwise shall be credited to the funds of the council, and there shall be paid out of such funds all expenses incurred by the council in carrying out its objects and all expenses incurred by the council under the authority of this Act.

Funds of the council.

15. (1) The council shall cause its accounts for each financial year to be kept in such form and manner as may be approved by the Minister.

Accounts of the council.

(2) The council shall cause its accounts to be audited each year in such manner as may be approved by the Minister.

(3) The financial year of the council shall be the year commencing on the first day of January.

Minutes of the council, &c,

16. The council and its executive committee shall cause minutes to be made in books provided for the purpose of the following matters, namely :—

- (a) of all appointments of officers or servants made by the council or the executive committee,
- (b) of the names of members and other persons present at every meeting of the council or the executive committee, and
- (c) of the proceedings and resolutions of every meeting of the council or the executive committee.

Books to be kept at the head office.

17. The books of accounts and minutes of the council and its executive committee shall be kept at the head office of the council or at such other place as the council may determine.

Annual report.

18. (1) As soon as may be after the end of each financial year the council shall prepare a report giving a true and faithful account of its activities, and of its income and expenditure, during that year.

(2) The president of the council shall transmit to the Minister a copy of the report prepared under subsection (1) in respect of each financial year, not later than the thirty-first day of March in the next succeeding year.

GENERAL PROVISIONS

Acts of the council, executive committee, or panels valid notwithstanding subsequent discovery of vacancy, disqualification, &c.

19. All acts done at any meeting of the council or its executive committee or any panel appointed by the council, shall, notwithstanding that it shall afterwards be discovered that there was any vacancy in the membership thereof or that there was some defect in the appointment of any member thereof or that any such member was disqualified or that there was a failure to

give notice of such meeting to any member thereof, be as valid as if there had been no such vacancy or as if such member had been duly appointed or duly qualified or as if there had been no such failure to give notice.

28. (1) Any instrument which is by law required to be made under seal, shall be made under the seal of the council. Seal of the council

(2) The seal of the council shall not be affixed to any instrument whatsoever referred to in subsection (1) except in the presence of one member of the council and the general secretary or such other person as may be authorized by the council for the purpose, each of whom shall sign his name to the instrument in token of his presence and such signing shall be independent of the signing of any person as a witness.

21. All instruments which are not required to be under seal shall be signed by such person or persons as may be authorized by rules made by the council in that behalf. Instruments not requiring seal of council.

22. (1) Subject to such special directions as may be given in that behalf by the Minister, the council may pay to any of its members or to any member of the executive committee or any panel constituted under section 12 any expenses actually incurred by such member for the purpose of the performance of his duties as a member. Remuneration. &c. of members.

(2) Save as provided in subsection (1), no member of the council or the executive committee or any panel constituted under section 12 shall be entitled to any remuneration or allowance for work done by him as a member.

23. No rule made by the council under the provisions of this Act shall be of any force or effect unless it has been approved by the Minister and published in the Gazette. Rules of the council-

CHAPTER 6

ADMINISTRATIVE DISTRICTS

Act AN ACT TO ESTABLISH ADMINISTRATIVE DISTRICTS AS THE AREAS OF AUTHORITY OF
 No.22 of 1955. GOVERNMENT AGENTS, TO EFFECT AND TO PROVIDE FOR THE EFFECTING OF
 CONSEQUENTIAL AMENDMENTS IN OTHER WRITTEN LAW, AND TO PROVIDE FOR
 PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

[14th April. 1955.]

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| Short title. | 1. This Act may be cited as the Administrative Districts Act. | (2) Every reference in any other written law to a revenue district shall, after the commencement of this Act, be construed as a reference to the administrative district consisting of the area which constituted that revenue district. |
| Establishment of administrative districts. | 2. (1) The administrative districts specified in the Schedule to this Act are hereby established.

(2) The limits of each administrative district specified in column I of the Schedule to this Act shall, subject to any alterations made therein under section 3, be those specified in the corresponding entry in column II of that Schedule. | (3) Where any other written law enables or requires the Government Agent of a province to exercise or perform any power, duty or function, such law shall, after the commencement of this Act, be construed as enabling or requiring the Government Agent of each administrative district in that province to exercise or perform that power, duty or function within the limits of that administrative district. |
| Abolition, creation and alteration of the limits, of administrative districts, and amendment of the Schedule, | 3. An administrative district may be abolished, a new administrative district may be established, the limits of an administrative district may be altered, and the Schedule to this Act may be amended or replaced with a new Schedule, by a resolution passed by Parliament. | (4) Where any other written law confers on the Government Agent of a province the power to make any by-law, regulation, rule, order, notification or notice, such law shall, after the commencement of this Act, be construed as conferring power on the Government Agent of each administrative district in that province to make for that administrative district any such by-law, regulation, rule, order, notification or notice. |
| Assignment of each administrative district to a Government Agent. | 4. Each administrative district shall be assigned to a Government Agent as his area of authority instead of a province. | (5) Where any other written law confers on the Government Agent of a province the power to issue any licence, permit, certificate of registration, or other document, such law shall, after the commencement of this Act, be construed as conferring power on the Government Agent of each administrative district in that province to issue for that administrative district any such licence, permit, certificate of registration or other document. |
| Appointment of Additional, Assistant, and Additional Assistant Government Agents. | 5. Any number of Additional Government Agents, Assistant Government Agents, and Additional Assistant Government Agents may be appointed for an administrative district. | (6) Where any other written law confers on the Government Agent of a province the power to determine any fees or charges, such |
| Provinces not to be affected by this Act. | 6. This Act shall not be deemed to prevent the continuance of the provinces of Sri Lanka as now constituted or as may hereafter be constituted, for any purpose other than that for which administrative districts are established by this Act. | |
| Construction of written law. | 7. (1) In any written law, unless the context otherwise requires, the expression "administrative district" shall mean an administrative district established by or under this Act. | |

law shall, after the commencement of this Act, be construed as conferring on the Government Agent of each administrative district in that province the power to determine for that administrative district any such fees or charges.

(7) Where any other written law requires any such notice, information, declaration, return or other document as relates to any matter in any part of a province to be delivered, sent or given to the Government Agent of that province, such law shall, after the commencement of this Act, be construed as requiring that notice, information, declaration, return or other document to be delivered, sent or given to the Government Agent of the administrative district within which that part of that province lies.

Amendment of other written law, &c,

8. The Minister may by Order published in the Gazette make such amendments in any other written law, or make such provision in regard to any matter, as may be necessary in consequence of the provisions of this Act. Every Order made by the Minister under this subsection and published in the Gazette shall have the force of law.

9. (1) This Act shall not be deemed to affect the operation of any by-law, regulation, rule, order, notification or notice made by the Government Agent of a province under any other written law before the commencement of this Act.

(2) This Act shall not be deemed to affect the continuance in force of any licence, permit, certificate of registration or other document issued, and the validity of any instrument executed, by the Government Agent of a province before the commencement of this Act.

(3) Where the Government Agent of a province has, before the commencement of this Act, determined any fees or charges by virtue of the power conferred on him by any other written law, such determination shall not be affected by this Act.

(4) Where any act or thing is commenced by the Government Agent of a province under any other written law in any part of that province and is not completed before the commencement of this Act, that act or thing may be carried on and completed by the Government Agent of the administrative district within which that part of that province lies.

[Section 2.]

SCHEDULE

<i>Column I</i>	<i>Column II</i>
ADMINISTRATIVE DISTRICTS AND AREA OF AUTHORITY	LIMITS OF THE ADMINISTRATIVE DISTRICTS
<p>1. Administrative District of Colombo, consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Colombo Nugegoda Kolonnawa Kaduwela Homagama Avisawella Kesbawa Moratuwa</p>	<p>Northern : Kelani Ganga.</p> <p>Eastern: Ruwanwella; Dehiowita in Kegalle District; Eheliyagoda in Ratnapura District.</p> <p>Southern : Eheliyagoda in the Ratnapura District; Raigam Korale East; Raigam Korale West and Panadura Totamune in Kalutara District.</p> <p>Western : Sea.</p>
<p>2. Administrative District of Gampaha, consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Wattala Negombo Katana Minuvangoda Divulapitiya Mirigama</p>	<p>Northern : Wennappuwa in Puttalam District; Pannala, Dambadeni Hatpattu West in Kurunegala District.</p> <p>Eastern : Warakapola, Ruwanwella in Kegalle District.</p> <p>Southern : Kelani Ganga.</p> <p>Western: Sea.</p>

ADMINISTRATIVE DISTRICTS

[Cap. 6

<i>Column I</i>	<i>Column II</i>
ADMINISTRATIVE DISTRICTS AND AREA OF AUTHORITY	LIMITS OF THE ADMINISTRATIVE DISTRICTS
Gampaha Weke Attanagalla Mahara Kelaniya Biyagama Ja-Ela	
3. Administrative District of Kalutara. consisting of the following divisional Assistant Government Agent-' Divisions :-	Northern : Moratuwa. Kesbewa, Avissawella in Colombo District.
Rayigam Korale East Rayigiirm Korale West Kalulara Totamuna North Kalulara Tolamuna South Panadura Totamuna Pasdun Korale East Pasdun Korale West Pasdun Korale South Gangabadapattuwa Dodangoda.	Eastern : Kalawana, Ayagama, Kuruwita, Eheliyagoda in Ratnapura District. Southern - Hinidum Pattuwa North, Hinidum Pattuwa South, Bentara Walallaviti Korale South, Bentara Walallaviti Korale East. Bentara Walallaviti Korale West in Galle District. Western ; Sea.
4. Administrative District of Kandy. consisting of the following divisional Assistant Government Agents' Divisions :-	Northern : Mawatagama and Ridigama in Kurunegala District ; Matale, Ukuwela, Rattota, Laggala, Wilgamuwa divisional Assistant Government Agents' Divisions in Matale District
Tumpane Harispattuwa Pata Dumbara Meda Dumbara Uda Dumbara Minipe Pata Hewaheta Mahanuwara Kadawat-Satara and Gangawata Korale Udawalpata Pasbage Korale Udunuwara Yatinuwara Ganga Ihala Korale Kundasale Panwila Uda Hewaheta	Eastern : Mahiyanganaya, Ridimaliyadda divisional Assistant Government Agents' Divisions in Badulla District. Southern : Kandekeliya in Badulla District ; Walapane, Kotmale. Nuwara Eliya and Ambagamuwa Korale divisional Assistant Government Agents' Divisions in Nuwara Eliya District. Western : Yatiyantota. Aranayake, Mawanella, Rambukkana divisional Assistant Government Agents' Divisions in Kegalle District.
5. Administrative District of Matale. consisting of the following divisional Assistant Government Agents-Divisions:-	Northern : Kalagam Palata South. Kekirawa in Anuradhapura District: Sinhala Pattuwa. Elahera. Tamankaduwa in Polonnaruwa District.
Matale Ukuwela Ruttola Ambanganga Korale Pallepola Galewela Dambulla Naula Laggula Wilgamuwa	Eastern : Elahera in Polonnaruwa District ; Bintenna Panwila South in Amparu District ; Mahiyanganaya in Badulla District. Southern: Harispattuwa, Uda Dumbara. Pata Dumbara, Panwila, Minipe in Kandy District Western : Ridigama. Ibbagamuwa in Kurunegala District.

ADMINISTRATIVE DISTRICTS

<i>Column I</i>	<i>Column II</i>
ADMINISTRATIVE DISTRICTS AND AREA OF AUTHORITY	LIMITS OF THE ADMINISTRATIVE DISTRICTS
<p>6. Administrative District of Nuwara Eliya, consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Kotmale Nuwara Eliya Ambagamuwa Korale Walapane</p>	<p>Northern : Pasbage Korale, Udapalata, Pata Hewaheta, Uda Hewaheta, Uda Dumbara, Minipe in Kandy District.</p> <p>Eastern : Kandaketiya, Uva-Paranagama, Welimada, Haldummulla in Badulla District.</p> <p>Southern : Ratnapura, Imbulpe in Ratnapura District.</p> <p>Western : Ratnapura in Ratnapura District ; Deraniyagala and Yatiyantota divisional Assistant Government Agents' Divisions in Kegalle District.</p>
<p>7. Administrative District of Galle. consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Bentara Walallawita Korale West Bentara Walallawita Korale East Bentara Walallawita Korale Central Bentara Walallawila Korale South Wellabada Pattuwa North Wellabada Pattuwa South Gangabada Pattuwa South Gangabada Pattuwa North Hinidum Pattuwa North Hinidum Pattuwa South Galu Kadawat Satara Bope-Poddala Akmeemana Kadawat Satara Talpe Pattuwa North Talpe Pattuwa South Wellabada Pattuwa East</p>	<p>Northern : Kalutara Totamuna South ; Pasdun Korale South. Pasdun Korale West. Pasdun Korale East in Kalutara District; Kalawana in Ratnapura District.</p> <p>Eastern : Morawak Korale West, Weligam Korale North, Weligam Korale West in Matara District.</p> <p>Southern: Sea.</p> <p>Western: Sea.</p>
<p>8. Administrative District of Matara, consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Morawak Korale West Morawak Korale East Weligam Korale North Weligam Korale South Weligam Korale West Kandabada Pattuwa East Kandabada Pattuwa West Gangabada Pattuwa North Gangabada Pattuwa South Wellabada Pattuwa West and Kadawat Satara Wellabada Pattuwa East</p>	<p>Northern : Kalawana, Kolonna Korale in Ratnapura District.</p> <p>Eastern: Katuwana, Weeraketiya, Bcliatta, Tangalle in Hambantota District.</p> <p>Southern: Sea.</p> <p>Western : Hinidum Pattuwa North, Hinidum Pattuwa South, Gangabada Pattuwa North. Talpe Pattuwa North. Talpe Pattuwa South in Galle District.</p>
<p>9. Administrative District of Hambantota, consisting of the following divisional Assistant Governmert Agents' Divisions :-</p> <p>Tissamaharamaya Hambantota Angunakola-Pelessa</p>	<p>Northern: Kolonna Korale in Ratnapura District Tanamalwila in Monaragala District Panama Pattuwa in Ampara District.</p> <p>Eastern : Panama Pattuwa in Ampara District Sea.</p> <p>Southern: Sea.</p>

ADMINISTRATIVE DISTRICTS

[Cap. 6

<i>Column I</i>	<i>Column II</i>
ADMINISTRATIVE DISTRICTS AND AREA OF AUTHORITY	LIMITS OF THE ADMINISTRATIVE DISTRICTS
<p>Tangalle Beliatta Weeranketiya Katuwana</p>	<p>Western - Wellabada Pattuwa East, Gangabada Pattuwa North, Kandabada Pattuwa West, Morawak Korale East in Matara District; Kolonne Korale in Ratnapura District.</p>
<p>10. Administrative District of Jaffna, consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Delft Islands South Islands North Walikumam North Walikumam South Walikumam West Walikumam South-West Wailkiimam East Jaffna Nallur Tenmaraachchi Vadamaraachchi South and West Vadamaraachchi North and East Pachchilaipalai Karachchi Punakari</p> <p>Administrative District of Mannar, consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Mannar Nanattan Musali Mantai West</p>	<p>Northern : Sea.</p> <p>Eastern : Sea.</p> <p>Southern : Puhukudyiruppu. Muhudubada Pattuwa. Thunukkai in Mullaitivu District; Mantai West in Mannar District.</p> <p>Western : Sea.</p> <p>Northern: Punakari in Jaffna District; Mantai East in Mullaitivu District and Sea.</p> <p>Eastern : Thunukkai, Mantai East in Mullaitivu District ; Vavuniya South (Tamil), Wengala-Chettikulam in Vavuniya District; Nuwaragam Palatha West in Anuradhapura District.</p> <p>Southern : Wanatawillu in Puttalam District ; Nuwaragam Palata West in Anuradhapura District.</p> <p>Western : Sea.</p>
<p>12. Administrative District of Vavuniya, consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Vavuniya South (Tamil) Vavuniya South (Sinhala) Wengalacheitikulam Vavuniya North</p>	<p>Northern: Mantai East, Puhukudyiruppu in Mullaitivu District-</p> <p>Eastern: Muhudubada Pattuwa in Mullaitivu District.</p> <p>Southern : Nuwaragam Palatha West. Nuwaragam Palatha East, Kadawath Korale, Kunchuttu Korale. Padaviya in Anuradhapura District.</p> <p>Western: Thunukkai in Mullaitivu District; Mantai West, Nanattan in Mannar District.</p>
<p>13. Administrative District of Mullaitivu, consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Muhudubada P;muw;i Puhukudyiruppu Pattuwa Mantai East Thunukkai</p>	<p>Northern : Punakari, Karachchi in Jaffna District.</p> <p>Eastern : Sea.</p> <p>Southern : Maoya ; Vavuniya North, Vavuniya South (Tamil) in Vavuniya District ; Mantai West in Mannar District.</p> <p>Western : Mantai West in Mannar District ; Punakari in Jaffna District.</p>

Column I

Column II

ADMINISTRATIVE DISTRICTS AND AREA OF AUTHORITY	LIMITS OF THE ADMINISTRATIVE DISTRICTS
<p>14. Administrative District of Batticaloa, consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Korale Pattuwa North Korale Pattuwa Eravur Pattuwa Manmune Pattuwa North Manmune Pattuwa West Manmune Pattuwa South West and Poralhive Pattuwa Manmune South and Eruvil Pattuwa</p>	<p>Northern : Seruwila in Trincomalee District.</p> <p>Eastern : Sea.</p> <p>Southern: Karawahu Pattuwa, Wevagam Pattuwa North. Samanthurai Pattuwa, Bintenna Pattuwa North in Ampara District.</p> <p>Western : Tamankaduwa in Polonnaruwa District; Bintenna Pattuwa North in Ampara District.</p>
<p>15. Administrative District of Ampara. consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Bintenna Pattuwa North Bintenna Pattuwa South Wevagam Pattuwa North Wevagam Pattuwa South Panama Pattuwa Potuvil Akkarapattuwa Addalachchena Ninthavur Pattuwa Karawahu Pattuwa Samanthurai Pattuwa Thirukkivil</p>	<p>Northern: Tamankaduwa Division in Polonnaruwa District; Eravur Pattuwa, Manmune South West and Porathive Pattuwa. Manmune South and Eruvil Pattuwa in Batticaloa District.</p> <p>Eastern: Manmune South-West and Porativu Pattuwa, Manmune South and Eruvil Pattuwa in Batticaloa District ; Sea.</p> <p>Southern : Tissamaharama Division in Hambantota District; Madulla, Bibile, Siyambanduwa in Monaragala District; Mahiyanganaya, Ridimaliyadde in Badulla District.</p> <p>Western : Wilgamuwa in Matale District; Mahiyanganaya, Ridimaliyadda in Badulla District; Bibile, Madulla, Siyambanduwa in Monaragala District.</p>
<p>16. Administrative District of Trincomalee, consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Trincomalee Town and Kadawat Koddiyar Pattuwa (Muttur) Tambalagamuwa Kantale Seruwila Kinniya Kattukulam Pattuwa East Kattukulam Pattuwa West Morawewa</p>	<p>Northern ; Muhudubada Pattuwa in Vavuniya District.</p> <p>Eastern : Sea.</p> <p>Southern : Korale Pattuwa North in Batticaloa District; Tamankaduwa, Lankapura, Medirigiriya in Polonnaruwa District.</p> <p>Western: Medirigiriya in Polonnaruwa District; Horovpatana, Kunchuttu Korale in Anuradhapura District.</p>
<p>17. Administrative District of Kurunegala, consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Galgamuwa Giribawa Maho Polpitiyagama Ibbagamuwa Ridigama Mawatagama Kurunegala Wariyapola Nikawcratiya Hettipola Bingiriya Kuliyapitiya Pannala Dambadeni Hatpattuwa West Dambadeni Hatpattuwa East Kubeigane</p>	<p>Northern : Kirimetiya, Kumaravanni Palata in Puttalam District ; Nuwaragam Palata West, Nuwaragam Palata South, Kalagam Palata South in Anuradhapura District.</p> <p>Eastern : Kalagam Palata South in Anuradhapura District; Galewela, Pallepola, Matale in Matale District ; Harispattuwa, Tumpane in Kandy District.</p> <p>Southern : Alutkuru Korale North ' A ', Ridigama, Divulapitiya in Gampaha District; Warakapola, Galigamuwa, Rambukkana in Kegalle District.</p> <p>Western : Rajawanni Palata, Kirimatiyawa, Kumaravanni Palata, Pitigal Korale North (Chilaw), Pitigal Korale South(Nattandiya), Wennappuwa in Puttalam District.</p>

<i>Column I</i>	<i>Column II</i>
ADMINISTRATIVE DISTRICTS AND AREA OF AUTHORITY	LIMITS OF THE ADMINISTRATIVE DISTRICTS
<p>18. Administrative District of Puttalam, consisting of the following divisional Assistant Government Agents' Divisions:-</p> <p>Wanatawillu Kalpitiya Puttalam Pattu and Kadawat Rajawanni Palata Kirimetiya Kumarawanni Palata Arachchikattuwa Pitigal Korale North (Chilaw) Pitigal Korale South (Nattandiya) Wennappuwa</p>	<p>Northern : Musali in Mannar District ; Nuwaragam Palata West in Anuradhapura District.</p> <p>Eastern : Galgamuwa, Giribawa, Nikaweratiya, Bingiriya, Kuliyaipitiya, Pannala in Kurunegala District.</p> <p>Southern : Alutkuru Korale North 'A', Divulapitiya in Colombo District.</p> <p>Western: Sea.</p>
<p>19. Administrative District of Anuradhapura, consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Nuwaragam Palata East Nuwaragam Palata West Nuwaragam Palata Central Nuwaragam Palata South Kadawat Korale Kunchuttu Korale Hurulu Palata South Hurulu Palata Central Kalagam Palata North Kalagam Palata South Kande Korale Hurulu Wewa Kekirawa Mihintale Padaviya Horovpatana</p>	<p>Northern : Musali in Mannar District; Wengalachettikulam, Vavuniya South (Sinhala), Vavuniya North in Vavuniya District; Maoya in Trincomalee District.</p> <p>Eastern: Kattukulam Pattuwa East. Kattukulam Pattuwa West, Yan Oya. Tampalakamam and Kantale in Trincomalee District ; Sinhala Pattuwa and Minneriya in Polonnaruwa District.</p> <p>Southern : Galewela and Dambulla in Matale District; Galgamuwa and Polpitiyama in Kurunegala District; Rajawanni Palata in Puttalam District.</p> <p>Western: Wanatawillu in Puttalam District; Musali in Mannar District.</p>
<p>20. Administrative District of Polonnaruwa, consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Sinhala Pattuwa Lankapura Elahera Tamankaduwa Medirigiriya</p>	<p>Northern : Horovpatana in Anuradhapura District; Seruvila, Kantale in Trincomalee District.</p> <p>Eastern : Seruvila in Trincomalee District; Korale Pattuwa, Korale Pattuwa North, Eravur Pattuwa in Batticaloa District ; Bintenna Pattuwa North in Ampara District.</p> <p>Southern : Bintenna Pattuwa South in Ampara District; Korale Pattuwa in Batticaloa District; Vilgamuwa, Laggala, Dambulla in Matale District.</p> <p>Western : Naula, Dambulla in Matale District; Kekirawa, Huruluwewa, Horovpatana in Anuradhapura District.</p>

ADMINISTRATIVE DISTRICTS

<i>Column I</i>	<i>Column II</i>
ADMINISTRATIVE DISTRICTS AND AREA OF AUTHORITY	LIMITS OF THE ADMINISTRATIVE DISTRICTS
<p>21. Administrative District of Badulla, consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Mahiyanganaya Ridimaliyadda Kandeketiya Meegahakivula Badulla Passara Soranatota Uva - Paranagama Welimada Bandarawela Haputale Haldummuila Hali-Ela Ella</p>	<p>Northern : Bintenna Pattuwa South in Ampara District ; Vilgamuwa in Malale District.</p> <p>Eastern : Bintenna Pattuwa South in Ampara District ; Bibile, Medagama, Kandukara Korale, Buttala in Monaragala District.</p> <p>Southern : Buttala. Tanamalvila in Monaragala District, Imbulpe, Balangoda in Ratnapura District.</p> <p>Western : Imbulpe, Balangoda in Ratnapura District ; Walapane, Nuwara Eliya in Nuwara Eliya District ; Minipe in Kandy District; Wilgamuwa in Malale District.</p>
<p>22. Administrative District of Monaragala, consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Bibile Medagama Madulla Monarngala Kandukara Korale Siyambalanduwa Bullala Tanamalvila</p>	<p>Northern: Bintenna North, Bintenna Pattuwa South in Ampara District.</p> <p>Eastern : Wevgam Pattwa North, Wevgam Pattuwu South, Panama Pattuwa in Ampara District.</p> <p>Southern : Hambantota, Tissamaharamaya in Hambantota District.</p> <p>Western : Kolonna Korale, Atakalan Korale, Veligepola, Balangoda in Ratnapura District: Haldummulla, Bandarawela, Passara. Meegahakivula. Ridimaliyadde in Badulla District.</p>
<p>23. Administrative District of Ratnapura. consisting of the following divisional Assistant Government Agents' Divisions :-</p> <p>Ratnapura Kuruwita Eheliyagoda Ayagama Kalawana Nivitigala Pelmadulla Balangoda Imbulpe Weligepola Kolonna Korale Atakatan Korale</p>	<p>Northern : Dehiowita, Deraniyagala in Kegalle District ; Ambagamuwa Korale, Nuwara Eliya in Nuwara Eliya District ; Avissawella in Colombo District ; Haldummulla in Badulla District.</p> <p>Eastern : Ambagamuwa Korale in Nuwara Eliya District . Haldummulla in Badulla District ; Thanamaivila in Monaragala District ; Ambalantola in Hambanlota District.</p> <p>Southern : Ambalantota, Angunakola-Peessa, Katuwana in Hambantota District ; Morawak Korale East, Morawak Korale West in Matara District; Hinidum Pattuwa North in Galle District,</p> <p>Western : Morawak Korale East, Morawak Korale West in Matara District ; Avissawella in Colombo District : Ravipam Korale East, Gangabada Pattuwa, Pasdun Korale East in Kalutara District.</p>

ADMINISTRATIVE DISTRICTS

[Cap. 6

Column I

Column II

ADMINISTRATIVE DISTRICTS AND AREA OF AUTHORITY	LIMITS OF THE ADMINISTRATIVE DISTRICTS
24. Administrative District of Kegalle, consisting of the following divisional Assistant Government Agents' Divisions :- Rambukkana Mawanella Aranayake Kegalle Galigamuwa Warakapola Ruwanwella Yatiantota Dehiowita Deraniyagala	Northern : Mawatagama, Kurunegala, Dambadeni Hath Pattuwa East, Dambadeni Hath Pattuwa West in Kurunegala District, and Tumpane, Yatinuwara, Udunuwa in Kandy District. Eastern : Tumpane, Yatinuwara, Udunuwara, Udapalata, Gangaihala Korule, Pasbage Korale in Kandy District; and Ambagamuwa Korale in Nuwara Eliya District. Southern : Kuruwita, Eheliyagoda, Ratnapura in Ratnapura District. Western: Avissawella in Colombo District; and Attanagalla, Mirigama and Siyane Korale East, Gangabada Pattuwa (Weke) in Gampaha District.

CHAPTER 314

ASIAN DEVELOPMENT BANK AGREEMENT (RATIFICATION)

Act AN ACT TO ENABLE CEYLON TO BECOME A MEMBER OF THE ASIAN DEVELOPMENT
 No. 21 of 1966. BANK AUTHORIZING THE RATIFICATION OR ACCEPTANCE BY CEYLON OF THE
 AGREEMENT, ESTABLISHING THAT BANK, TO WHICH CEYLON IS A SIGNATORY.

[24th September, 1966.]

<i>Short title.</i>	1. This Act may be cited as the Asian Development Bank Agreement (Ratification) Act.	4. There shall be paid out of the Consolidated Fund such sums as are payable, or may, from time to time, become payable, to the Bank by the Government of Sri Lanka under the Articles of the Agreement.	Payments out of the Consolidated Fund.
<i>Authorization of ratification or acceptance of the Agreement establishing the Asian Development Bank.</i>	2. The Governor-General* is hereby empowered by instruments under his hand to authorize such person as may be named in the instrument, on behalf of the Government of Ceylon,— (a) to ratify or accept the Agreement establishing the Asian Development Bank, in this Act referred to as "the Agreement" and "the Bank" respectively, to which Ceylon is a signatory and which is set out in the Schedule to this Act; and (b) to deposit with the Secretary-General of the United Nations an instrument of such ratification or acceptance stating that the Government has accepted the Articles of the Agreement without reservation in accordance with the law of Ceylon and has taken all steps to enable the Government to carry out all the obligations of the Government under the said Articles in order that Ceylon which is entitled to be an original member of the Bank by virtue of Article 64 of, and Annex A to, the said Articles may accept membership in the Bank.	5. (1) For the purpose of providing any sums required to be paid out of the Consolidated Fund under section 4, the Minister in charge of the subject of Finance is hereby authorized to raise loans, on behalf of the Government of Sri Lanka, by the creation and issue to the Central Bank of Ceylon, in such form as he thinks fit, of non-interest bearing and non-negotiable notes or obligations. (2) Notwithstanding anything in the Monetary Law Act, the Central Bank of Ceylon is hereby authorized to accept and hold any notes or obligations created and issued in accordance with the provisions of subsection (1) of this section. (3) There shall be paid out of the Consolidated Fund all sums required for the redemption of any notes or obligations created and issued to the Central Bank of Ceylon under subsection (1) of this section.	Issue of Government notes or obligations to the Central Bank of Ceylon.
<i>Status, immunities, exemptions, and privileges accorded to the Bank in Sri Lanka.</i>	3. The provisions of Chapter VIII of the Agreement shall have the force of law in Sri Lanka, and accordingly the Bank shall have in Sri Lanka the status, immunities, exemptions and privileges specified in the said Chapter VIII.	6. All sums received by or on behalf of the Government of Sri Lanka from the Bank under the Articles of the Agreement shall be paid into the Consolidated Fund ; and the sums so received, in so far as they represent capital, shall, unless otherwise provided in that behalf under any written law, be applied from time to time as the Minister in charge of the subject of Finance	Receipts.

* The Governor-General has already exercised his powers under this section on 24th September, 1966, and the instrument of ratification has been deposited with the Secretary-General of the United Nations OD September 29, 1966,

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may direct in the redemption of notes or other obligations issued to the Central Bank of Ceylon under this Act.

the earliest possible opportunity and shall have the force of law unless disapproved within one month.

Power of the Minister to make Orders.

7. (1) The Minister in charge of the subject of Finance may, by Order published in the Gazette, make such other provision as he may consider reasonably necessary for carrying into effect any of the provisions of the Articles of the Agreement, and every Order made under this subsection and so published shall be laid before Parliament at

(2) The Minister in charge of the subject of Finance may take all such steps, and make all such arrangements, as he may consider reasonably necessary to enable the Government of Sri Lanka to meet or discharge its financial obligations or liabilities under the Articles of the Agreement.

[Section 2.]

SCHEDULE

AGREEMENT ESTABLISHING THE ASIAN DEVELOPMENT BANK

THE CONTRACTING PARTIES

Considering the importance of closer economic co-operation as a means for achieving the most efficient utilization of resources and for accelerating the economic development of Asia and the Far East;

Realizing the significance of making additional development financing available for the region by mobilizing such funds and other resources both from within and outside the region, and by seeking to create and foster conditions conducive to increased domestic savings and greater flow of development funds into the region ;

Recognizing the desirability of promoting the harmonious growth of the economies of the region and the expansion of external trade of member countries;

Convinced that the establishment of a financial institution that is Asian in its basic character would serve these ends;

Have Agreed to establish hereby the Asian Development Bank (hereinafter called the " Bank ") which shall operate in accordance with the following.

ARTICLES OF AGREEMENT

Chapter I

PURPOSE, FUNCTIONS AND MEMBERSHIP

ARTICLE I

PURPOSE

The purpose of the Bank shall be to foster economic growth and co-operation in the region of Asia and the Far East (hereinafter referred to as the " region ") and to contribute to the acceleration of the process of economic development of the developing member countries in the region, collectively and individually. Wherever used in this Agreement, the terms " region of Asia and the Far East " and " region " shall comprise the territories of Asia and the Far East included in the Terms of Reference of the United Nations Economic Commission for Asia and the Far East.

ARTICLE 2

FUNCTIONS

To fulfil its purpose, the Bank shall have the following functions :

- (i) to promote investment in the region of public and private capital for development purposes;
- (ii) to utilize the resources at its disposal for financing development of the developing member countries in the region, giving priority to those regional, sub-regional as well as national projects and programmes which

will contribute most effectively to the harmonious economic growth of the region as a whole, and having special regard to the needs of the smaller or less developed member countries in the region;

- (iii) to meet requests from members in the region to assist them in the co-ordination of their development policies and plans with a view to achieving better utilization of their resources, making their economies more complementary, and promoting the orderly expansion of their foreign trade, in particular, intra-regional trade;
- (iv) to provide technical assistance for the preparation, financing and execution of development projects and programmes, including the formulation of specific project proposals ;
- (v) to co-operate, in such manner as the Bank may deem appropriate, within the terms of this Agreement, with the United Nations, its organs and subsidiary bodies including, in particular, the Economic Commission for Asia and the Far East, and with public international organizations and other international institutions, as well as national entities whether public or private, which are concerned with the investment of development funds in the region, and to interest such institutions and entities in new Opportunities for investment and assistance ; and
- (vi) to undertake such other activities and provide such other services as may advance its purpose.

ARTICLE 3

MEMBERSHIP

1. Membership in the Bank shall be open to: (i) members and associate members of the United Nations Economic Commission for Asia and the Far East; and (ii) other regional countries and non-regional developed countries which are members of the United Nations or of any of its specialized agencies.

2. Countries eligible for membership under paragraph I of this Article which do not become members in accordance with Article 64 of this Agreement may be admitted, under such terms and conditions as the Bank may determine, to membership in the Bank upon the affirmative vote of two-thirds of the total number of Governors, representing not less than three-fourths of the total voting power of the members.

3. In the case of associate members of the United Nations Economic Commission for Asia and the Far East which are not responsible for the conduct of their international relations, application for membership in the Bank shall be presented by the member of the Bank responsible for the international relations of the applicant and accompanied by an undertaking by such member that, until the applicant itself assumes such responsibility, the member shall be responsible for all obligations that may be incurred by the applicant by reason of admission to membership in the Bank and enjoyment of the benefits of such membership. " Country " as used in this Agreement shall include a territory which is an associate member of the United Nations Economic Commission for Asia and the Far East.

Chapter II

CAPITAL

ARTICLE 4

AUTHORIZED CAPITAL

1. The authorized capital stock of the Bank shall be one billion dollars (\$ 1,000,000,000) in terms of United States dollars of the weight and fineness in effect on 31 January, 1966. The dollar wherever referred to in this Agreement shall be understood as being a United States dollar of the above value. The authorized capital stock shall be divided into one hundred thousand (100,000) shares having a par value of ten thousand dollars (\$ 10,000) each, which shall be available for subscription only by members in accordance with the provisions of Article 5 of this Agreement.

2. The original authorized capital stock shall be divided into paid-in shares and callable shares. Shares having an aggregate par value of five hundred million dollars (\$ 500,000,000) shall be paid-in shares, and shares having an aggregate par value of five hundred million dollars (\$ 500,000,000) shall be callable shares.

3. The authorized capital stock of the Bank may be increased by the Board of Governors, at such time and under such terms and conditions as it may deem advisable, by a vote of two-thirds of the total number of Governors, representing not less than three-fourths of the total voting power of the members.

ARTICLE 5

SUBSCRIPTION OF SHARES

1. Each member shall subscribe to shares of the capital stock of the Bank. Each subscription to the original authorized capital stock shall be for paid-in shares and callable shares in equal parts. The initial number of shares to be subscribed by countries which become members in accordance with Article 64 of this Agreement shall be that set forth in Annex A hereof. The initial number of shares to be subscribed by countries which are admitted to membership in accordance with paragraph 2 of Article 3 of this Agreement shall be determined by the Board of Governors; provided, however, that no such subscription shall be authorized which would have the effect of reducing the percentage of capital stock held by regional members below sixty (60) per cent of the total subscribed capital stock.

2. The Board of Governors shall at intervals of not less than five (5) years review the capital stock of the Bank. In case of an increase in the authorized capital stock, each member shall have a reasonable opportunity to subscribe, under such terms and conditions as the Board of Governors shall determine, to a proportion of the increase of stock equivalent to the proportion which its stock therefor subscribed bears to the total subscribed capital stock immediately prior to such increase; provided, however, that the foregoing provision shall not apply in respect of any increase or portion of an increase in the authorized capital stock intended solely to give effect to determinations of the Board of Governors under paragraphs 1 and 3 of this Article. No member shall be obligated to subscribe to any part of an increase of capital stock.

3. The Board of Governors may, at the request of a member, increase the subscription of such member on such terms and conditions as the Board may determine; provided, however, that no such increase in the subscription of any member shall be authorized which would have the effect of reducing the percentage of capital stock held by regional members below sixty (60) per cent of the total subscribed capital stock. The Board of Governors shall pay special regard to the request of any regional member having less than six (6) per cent of the subscribed capital stock to increase its proportionate share thereof.

4. Shares of stock initially subscribed by members shall be issued at par. Other shares shall be issued at par unless the Board of Governors by a vote of a majority of the total number of Governors, representing a majority of the total voting power of the members, decides in special circumstances to issue them on other terms.

5. Shares of stock shall not be pledged or encumbered in any manner whatsoever, and they shall not be transferable except to the Bank in accordance with Chapter VII of this Agreement.

6. The liability of the members on shares shall be limited to the unpaid portion of their issue price.

7. No member shall be liable, by reason of its membership, for obligations of the Bank.

ARTICLE 6

PAYMENT OF SUBSCRIPTIONS

1. Payment of the amount initially subscribed by each Signatory to this Agreement which becomes a member in accordance with Article 64 to the paid-in capital stock of the Bank shall be made in five (5) instalments, of twenty (20) per cent each of such amount. The first instalment shall be paid by each member within thirty (30) days after entry into force of this Agreement, or on or before the date of deposit on its behalf of its instrument of ratification or acceptance in accordance with paragraph 1 of Article 64, whichever is later. The second instalment shall become due one (1) year from the entry into force of this Agreement. The remaining three instalments shall each become due successively one (1) year from the date on which the preceding instalment becomes due.

2. Of each instalment for the payment of initial subscriptions to the original paid-in capital stock:

(a) fifty (50) per cent shall be paid in gold or convertible currency; and

(b) fifty (50) per cent in the currency of the member.

3. The Bank shall accept from any member promissory notes or other obligations issued by the Government of the member, or by the depository designated by such member, in lieu of the amount to be paid in the currency of the member pursuant to paragraph 2 (b) of this Article, provided such currency is not required by the Bank for the conduct of its operations. Such notes or obligations shall be non-negotiable, non-interest-bearing, and payable to the Bank at par value upon demand. Subject to the provisions of paragraph 2 (ii) of Article 24, demands upon such notes or obligations payable in convertible currencies shall, over reasonable periods of time, be uniform in percentage on all such notes or obligations.

4. Each payment of a member in its own currency under paragraph 2 (A) of this Article shall be in such amount as the Bank, after such consultation with the International Monetary Fund as the Bank may consider

necessary and utilizing the par value established with the International Monetary Fund, if any, determines to be equivalent to the full value in terms of dollars of the portion of the subscription being paid. The initial payment shall be in such amount as the member considers appropriate hereunder but shall be subject to such adjustment, to be effected within ninety (90) days of the date on which such payment was due, as the Bank shall determine to be necessary to constitute the full dollar equivalent of such payment.

5. Payment of the amount subscribed to the callable capital stock of the Bank shall be subject to call only as and when required by the Bank to meet its obligations incurred under sub-paragraphs (ii) and (iv) of Article 11 on borrowings of funds for inclusion in its ordinary capital resources or on guarantees chargeable to such resources.

6. In the event of the call referred to in paragraph 5 of this Article, payment may be made at the option of the member in gold, convertible currency or in the currency required to discharge the obligations of the Bank for the purpose of which the call is made. Calls on unpaid subscriptions shall be uniform in percentage on all callable shares.

7. The Bank shall determine the place for any payment under this Article, provided that, until the inaugural meeting of its Board of Governors, the payment of the first instalment referred to in paragraph 1 of this Article shall be made to the Secretary-General of the United Nations, as Trustee for the Bank.

ARTICLE 7

ORDINARY CAPITAL RESOURCES

As used in this Agreement, the terra "ordinary capital resources" of the Bank shall include the following:—

- (i) authorized capital stock of the Bank, including both paid-in and callable shares, subscribed pursuant to Article 5 of this Agreement, except such part thereof as may be set aside into one or more Special Funds in accordance with paragraph 1 (i) of Article 19 of this Agreement;
- (ii) funds raised by borrowings of the Bank by virtue of powers conferred by sub-paragraph (i) of Article 21 of this Agreement, to which the commitment to calls provided for in paragraph 5 of Article 6 of this Agreement is applicable;
- (iii) funds received in repayment of loans or guarantees made with the resources indicated in (i) and (ii) of this Article;
- (iv) income derived from loans made from the aforementioned funds or from guarantees to which the commitment to calls set forth in paragraph 5 of Article 6 of this Agreement is applicable ; and
- (v) any other funds or income received by the Bank which do not form part of its Special Funds resources referred to in Article 20 of this Agreement.

Chapter III

OPERATIONS

ARTICLE 8

USE OF RESOURCES

The resources and facilities of the Bank shall be used exclusively to implement the purpose and functions set forth respectively in Articles 1 and 2 of this Agreement.

ARTICLE 9

ORDINARY AND SPECIAL OPERATIONS

1. The operations of the Bank shall consist of ordinary operations and special operations.
2. Ordinary operations shall be those financed from the ordinary capital resources of the Bank.
3. Special operations shall be those financed from the Special Funds resources referred to in Article 20 of this Agreement.

ARTICLE 10

SEPARATION OF OPERATIONS

1. The ordinary capital resources and the Special Funds resources of the Bank shall at all times and in all respects be held, used, committed, invested or otherwise disposed of entirely separate from each other. The financial statements of the Bank shall show the ordinary operations and special operations separately.

2. The ordinary capital resources of the Bank shall under no circumstances be charged with, or used to discharge, losses or liabilities arising out of special operations or other activities for which Special Funds resources were originally used or committed.

3. Expenses appertaining directly to ordinary operations shall be charged to the ordinary capital resources of the Bank. Expenses appertaining directly to special operations shall be charged to the Special Funds resources. Any other expenses shall be charged as the Bank shall determine.

ARTICLE 11

RECIPIENTS AND METHODS OF OPERATION

Subject to the conditions stipulated in this Agreement, the Bank may provide or facilitate financing to any member, or any agency, instrumentality or political subdivision thereof, or any entity or enterprise operating in the territory of a member, as well as to international or regional agencies or entities concerned with economic development of the region. The Bank may carry out its operations in any of the following ways;—

- (i) by making or participating in direct loans with its unimpaired paid-in capital and, except as provided in Article 17 of this Agreement, with its reserves and undisturbed surplus; or with the unimpaired Special Funds resources;
- (ii) by making or participating in direct loans with funds raised by the Bank in capital markets or borrowed or otherwise acquired by the Bank for inclusion in its ordinary capital resources ;
- (iii) by investment of funds referred to in (i) and (ii) of this Article in the equity capital of an institution or enterprise, provided no such investment shall be made until after the Board of Governors, by a vote of a majority of the total number of Governors, representing a majority of the total voting power of the members shall have determined that the Bank is in a position to commence such type of operations; or
- (iv) by guaranteeing, whether as primary or secondary obligor, in whole or in part, loans for economic development participated in by the Bank.

ARTICLE 12

LIMITATIONS ON ORDINARY OPERATIONS

1. The total amount outstanding of loans, equity investments and guarantees made by the Bank in its ordinary operations shall not at any time exceed the total amount of its unimpaired subscribed capital, reserves and surplus included in its ordinary capital resources, exclusive of the special reserve provided for by Article 17 of this Agreement and other reserves not available for ordinary operations.

2. In the case of loans made with funds borrowed by the Bank to which the commitment to calls provided for by paragraph 5 of Article 6 of this Agreement is applicable, the total amount of principal outstanding and payable to the Bank in a specific currency shall not at any time exceed the total amount of the principal of outstanding borrowings by the Bank that are payable in the same currency.

3. In the case of funds invested in equity capital out of the ordinary capital resources of the Bank, the total amount invested shall not exceed ten (10) per cent of the aggregate amount of the unimpaired paid-in-capital stock of the Bank actually paid up at any given time together with the reserves and surplus included in its ordinary capital resources, exclusive of the special reserve provided for in Article 17 of this Agreement.

4. The amount of any equity investment shall not exceed such percentage of the equity capital of the entity or enterprise concerned as the Board of Directors shall in each specific case determine to be appropriate. The Bank shall not seek to obtain by such an investment a controlling interest in the entity or enterprise concerned, except where necessary to safeguard the investment of the Bank.

ARTICLE 13

PROVISION OF CURRENCIES FOR DIRECT LOANS

In making direct loans or participating in them, the Bank may provide financing in any of the following ways:

- (i) by furnishing the borrower with currencies other than the currency of the member in whose territory the project concerned is to be carried out (the latter currency hereinafter to be called "local currency"), which are necessary to meet the foreign exchange costs of such project; or
- (ii) by providing financing to meet local expenditures on the project concerned, where it can do so by supplying local currency without selling any of its holdings in gold or convertible currencies. In special cases when, in the opinion of the Bank, the project causes or is likely to cause undue loss or strain on the balance of payments of the member in whose territory the project is to be carried out, the financing granted by the Bank to meet local expenditures may be provided in currencies other than that of such member; in such cases, the amount of the financing granted by the Bank for this purpose shall not exceed a reasonable portion of the total local expenditure incurred by the borrower.

ARTICLE 14

OPERATING PRINCIPLES

The operations of the Bank shall be conducted in accordance with the following principles :

- (i) The operations of the Bank shall provide principally for the financing of specific projects, including those forming part of a national, sub-regional or regional development programme. They may, however, include loans to, or guarantees of loans made to, national development banks or other suitable entities, in order that the latter may finance specific development projects whose individual financing requirements are not, in the opinion of the Bank, large enough to warrant the direct supervision of the Bank;
- (ii) In selecting suitable projects, the Bank shall always be guided by the provisions of paragraph (ii) of Article 2 of this Agreement;
- (iii) The Bank shall not finance any undertaking in the territory of a member if that member objects to such financing;
- (iv) Before a loan is granted, the applicant shall have submitted an adequate loan proposal and the President of the Bank shall have presented to the Board of Directors a written report regarding the proposal, together with his recommendation, on the basis of a staff study;
- (v) In considering an application for a loan or guarantee, the Bank shall pay due regard to the ability of the borrower to obtain financing or facilities elsewhere on terms and conditions that the Bank considers reasonable for the recipient, taking into account all pertinent factors ;
- (vi) In making or guaranteeing a loan, the Bank shall pay due regard to the prospects that the borrower and its guarantor, if any, will be in a position to meet their obligations under the loan contract;
- (vii) In making or guaranteeing a loan, the rate of interest, other charges and the schedule for repayment of principal shall be such as are, in the opinion of the Bank, appropriate for the loan concerned ;
- (viii) In guaranteeing a loan made by other investors, or in underwriting the sale of securities, the Bank shall receive suitable compensation for its risk;
- (ix) The proceeds of any loan, investment or other financing undertaken in the ordinary operations of the Bank or with Special Funds established by the Bank pursuant to paragraph 1 (i) of Article 19, shall be used only for procurement in member countries of goods and services produced in member countries, except in any case in which the Board of Directors, by a vote of the Directors representing not less than two-thirds of the total voting power of the members, determines to permit procurement in a non-member country or of goods and services produced in a non-member country in special circumstances making such procurement appropriate, as in the case of a non-member country in which a significant amount of financing has been provided to the Bank ;
- (x) In the case of a direct loan made by the Bank, the borrower shall be permitted by the Bank to draw its funds only to meet expenditures in connexion with the project as they are actually incurred ;
- (xi) The Bank shall take the necessary measures to ensure that the proceeds of any loan made, guaranteed or participated in by the Bank are used only for the purposes for which the loan was granted and with due attention to considerations of economy and efficiency ;

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- (xii) The Bank shall pay due regard to the desirability of avoiding a disproportionate amount of its resources being used for the benefit of any member;
- (xiii) The Bank shall seek to maintain reasonable diversification in its investments in equity capital; it shall not assume responsibility for managing any entity or enterprise in which it has an investment, except where necessary to safeguard its investments ; and
- (xiv) The Bank shall be guided by sound banking principles in its operations.

ARTICLE 15

TERMS AND CONDITIONS FOR DIRECT LOANS AND GUARANTEES

1. In the case of direct loans made or participated in or loans guaranteed by the Bank, the contract shall establish, in conformity with the operating principles set forth in Article 14 of this Agreement and subject to the other provisions of this Agreement, the terms and conditions for the loan or the guarantee concerned, including those relating to payment of principal, interest and other charges, maturities, and dates of payment in respect of the loan, or the fees and other charges in respect of the guarantee, respectively. In particular, the contract shall provide that, subject to paragraph 3 of this Article, all payments to the Bank under the contract shall be made in the currency loaned, unless, in the case of a direct loan made or a loan guaranteed as part of special operations with funds provided under paragraph 1 (ii) of Article 19, the rules and regulations of the Bank provide otherwise. Guarantees by the Bank shall also provide that the Bank may terminate its liability with respect to interest if, upon default by the borrower and the guarantor, if any, the Bank offers to purchase, at par and interest accrued to a date designated in the offer, the bonds or other obligations guaranteed.

2. Where the recipient of loans or guarantees of loans is not itself a member, the Bank may, when it deems it advisable, require that the member in whose territory the project concerned is to be carried out, or a public agency or any instrumentality of that member acceptable to the Bank guarantee the repayment of the principal and the payment of interest and other charges on the loan in accordance with the terms thereof.

3. The loan or guarantee contract shall expressly state the currency in which all payments to the Bank thereunder shall be made. At the option of the borrower, however, such payments may always be made in gold or convertible currency.

ARTICLE 16

COMMISSION AND FEES

1. The Bank shall charge, in addition to interest, a commission on direct loans made or participated in as part of its ordinary operations. This commission, payable periodically, shall be computed on the amount outstanding on each loan or participation and shall be at the rate of not less than one (1) per cent per annum, unless the Bank, after the first five (5) years of its operations, decides to reduce this minimum rate by a two-thirds majority of its members, representing not less than three-fourths of the total voting power of the members.

2. In guaranteeing a loan as part of its ordinary operations, the Bank shall charge a guarantee fee, at a rate determined by the Board of Directors, payable periodically on the amount of the loan outstanding.

3. Other charges of the Bank in its ordinary operations and any commission, fees or other charges in its special operations shall be determined by the Board of Directors.

ARTICLE 17

SPECIAL RESERVE

The amount of commissions and guarantee fees received by the Bank pursuant to Article 16 of this Agreement shall be set aside as a special reserve which shall be kept for meeting liabilities of the Bank in accordance with Article 15 of this Agreement. The special reserve shall be held in such liquid form as the Board of Directors may decide.

ARTICLE 18

METHODS OF MEETING LIABILITIES OF THE BANK

I. In cases of default on loans made, participated in or guaranteed by the Bank in its ordinary operations, the Bank shall take such action as it deems appropriate with respect to modifying the terms of the loan, other than the currency of repayment.

2. The payments in discharge of the Bank's liabilities on borrowings or guarantees under sub-paragraphs (ii) and (iv) of Article 11 chargeable to the ordinary capital resources shall be charged :

- (i) Pint, against the special reserve provided for in Article 17;
- (ii) Then, to the extent necessary and at the discretion of the Bank, against the other reserves, surplus and capital available to the Bank.

3. Whenever necessary to meet contractual payments of interest, other charges or amortization on borrowings of the Bank in its ordinary operations, or to meet its liabilities with respect to similar payments in respect of loans guaranteed by it, chargeable to its ordinary capital resources, the Bank may call an appropriate amount of the uncalled subscribed callable capital in accordance with paragraphs 6 and 7 of Article 6 of this Agreement.

4. In cases of default in respect of a loan made from borrowed funds or guaranteed by the Bank as part of its ordinary operations, the Bank may, if it believes that the default may be of long duration, call an additional amount of such callable capital not to exceed in any one (1) year one (1) per cent of the total subscriptions of the members to such capital, for the following purposes;

- (i) To redeem before maturity or otherwise discharge the Bank's liability on all or part of the outstanding principal of any loan guaranteed by it in respect of which the debtor is in default; and
- (ii) To repurchase, or otherwise discharge, the Bank's liability on all or part of its own outstanding borrowing.

5. If the Bank's subscribed callable capital stock shall be entirely called pursuant to paragraphs 3 and 4 of this Article, the Bank may, if necessary for the purposes specified in paragraph 3 of this Article, use or exchange the currency of any member without restriction, including any restriction imposed pursuant to paragraph 2 (i) and (ii) of Article 24.

ARTICLE 19

SPECIAL FUNDS

1. The Bank may:

- (i) set aside, by a vote of two-thirds of the total number of Governors, representing at least three-fourth, of the total voting power of the members, not more than ten (10) per cent each of the portion of the unimpaired paid-in capital of the Bank paid by members pursuant to paragraph 2 (a) of Article 6 and of the portion thereof paid pursuant to paragraph 2 (b) of Article 6, and establish therewith one or more Special Funds; and
- (ii) accept the administration of Special Funds which are designed to serve the purpose and come within the functions of the Bank.

2. Special Funds established by the Bank pursuant to paragraph 1 (i) of this Article may be used to guarantee or make loans of high developmental priority, with longer maturities, longer deferred commencement of repayment and lower interest rates than those established by the Bank for its ordinary operations. Such Funds may also be used on such other terms and conditions, not inconsistent with the applicable provisions of this Agreement nor with the character of such Funds as revolving funds, as the Bank in establishing such Funds may direct.

3. Special Funds accepted by the Bank under paragraph 1 (ii) of this Article may be used in any manner and on any terms and conditions not inconsistent with the purpose of the Bank and with the agreement relating to such Funds.

4. The Bank shall adopt such special rules and regulations as may be required for the establishment, administration and use of each Special Fund. Such rules and regulations shall be consistent with the provisions of this Agreement, excepting those provisions expressly applicable only to ordinary operations of the Bank.

ARTICLE 20

SPECIAL FUNDS RESOURCES

As used in this Agreement, the term **** Special Funds resources "** shall refer to the resources of any Special Fund and shall include:

- (a) resources set aside from the paid-in capital to a Special Fund or otherwise initially contributed to any Special Fund;

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- (b) funds accepted by the Bank for inclusion in any Special Fund ;
- (c) funds repaid in respect of loans or guarantees financed from the resources of any Special Fund which, under the rules and regulations of the Bank governing that Special Fund, are received by such Special Fund;
- (d) income derived from operations of the Bank in which any of the above-mentioned resources or funds are used or committed if, under the rules and regulations of the Bank governing the Special Fund concerned, that income accrues to such Special Fund ; and
- (e) any other resources placed at the disposal of any Special Fund.

Chapter IV

BORROWING AND OTHER MISCELLANEOUS POWERS

ARTICLE 21

GENERAL POWERS

In addition to the powers specified elsewhere in this Agreement, the Bank shall have the power to :

- (i) borrow funds in member countries or elsewhere, and in this connexion to furnish such collateral or other security therefor as the Bank shall determine, provided always that:
 - (a) before making a sale of its obligations in the territory of a country, the Bank shall have obtained its approval;
 - (b) where the obligations of the Bank are to be denominated in the currency of a member, the Bank shall have obtained its approval;
 - (c) the Bank shall obtain the approval of the countries referred to in sub-paragraphs (a) and (b) of this paragraph that the proceeds may be exchanged for the currency of any member without restriction; and
 - (d) before determining to sell its obligations in a particular country, the Bank shall consider the amount of previous borrowing, if any, in that country, the amount of previous borrowing in other countries, and the possible availability of funds in such other countries; and shall give due regard to the general principle that its borrowing should to the greatest extent possible be diversified as to country of borrowing;
- (ii) buy and sell securities the Bank has issued or guaranteed or in which it has invested, provided always that it shall have obtained the approval of any country in whose territory the securities are to be bought or sold;
- (iii) guarantee securities in which it has invested in order to facilitate their sale;
- (iv) underwrite, or participate in the underwriting of, securities issued by any entity or enterprise for purposes consistent with the purpose of the Bank ;
- (v) invest funds, not needed in its operations, in the territories of members in such obligations of members or nationals thereof as it may determine, and invest funds held by the Bank for pensions or similar purposes in the territories of members in marketable securities issued by members or nationals thereof;
- (vi) provide technical advice and assistance which serve its purpose and come within its functions, and where expenditures incurred in furnishing such services are not reimbursable, charge the net income of the Bank therewith ; in the first five (5) years of its operations, the Bank may use up to two (2) per cent of its paid-in capital for furnishing such services on a non-reimbursable basis; and
- (vii) exercise such other powers and establish such rules and regulations as may be necessary or appropriate in furtherance of its purpose and functions, consistent with the provisions of this Agreement.

ARTICLE 22

NOTICE TO BE PLACED ON SECURITIES

Every security issued or guaranteed by the Bank shall bear on its face a conspicuous statement to the effect that it is not an obligation of any Government, unless it is in fact the obligation of a particular Government, in which case it shall so state.

Chapter V

CURRENCIES

ARTICLE 23

DETERMINATION OF CONVERTIBILITY

Whenever it shall become necessary under this Agreement to determine whether any currency is convertible, such determination shall be made by the Bank after consultation with the International Monetary Fund.

ARTICLE 24

USE OF CURRENCIES

1. Members may not maintain or impose any restrictions on the holding or use by the Bank or by any recipient from the Bank, for payments in any country, of the following:

- (i) gold or convertible currencies received by the Bank in payment of subscriptions to its capital stock, other than that paid to the Bank by members pursuant to paragraph 2 (b) of Article 6 and restricted pursuant to paragraphs 2 (i) and (ii) of this Article ;
- (ii) currencies of members purchased with the gold or convertible currencies referred to in the preceding sub-paragraph;
- (iii) currencies obtained by the Bank by borrowing, pursuant to sub-paragraph (i) of Article 21 of this Agreement, for inclusion in its ordinary capital resources ;
- (iv) gold or currencies received by the Bank in payment on account of principal, interest, dividends or other charges in respect of loans or investments made out of any of the funds referred to in sub-paragraphs (i) to (iii) of this paragraph or in payment of fees in respect of guarantees made by the Bank ; and
- (v) currencies, other than the member's own currency, received by the member from the Bank in distribution of the net income of the Bank in accordance with article 40 of this Agreement.

2. Members may not maintain or impose any restriction on the holding or use by the Bank or by any recipient from the Bank, for payments in any country, of currency of a member received by the Bank which does not come within the provisions of the preceding paragraph, unless :

- (i) a developing member country, after consultation with and subject to periodic review by the Bank, restricts in whole or in part the use of such currency to payments for goods or services produced and intended for use in its territory ; or
- (ii) any other member whose subscription has been determined in Part A of Annex A hereof and whose exports of industrial products do not represent a substantial proportion of its total exports, deposits with its instrument of ratification or acceptance a declaration that it desires the use of the portion of its subscription paid pursuant to paragraph 2 (b) of Article 6 to be restricted, in whole or in part, to payments for goods or services produced in its territory: provided that such restrictions be subject to periodic review by and consultation with the Bank and that any purchases of goods or services in the territory of that member, subject to the usual consideration of competitive tendering, shall be first charged against the portion of its subscription paid pursuant to paragraph 2 (b) of Article 6 ; or
- (iii) such currency forms part of the Special Funds resources of the Bank available under paragraph 1 (ii) of Article 19 and its use is subject to special rules and regulations.

3. Members may not maintain or impose any restrictions on the holding or use by the Bank, for making amortization payments or anticipatory payments or for repurchasing in whole or in part the Bank's own obligations, of currencies received by the Bank in repayment of direct loans made out of its ordinary capital resources, provided, however, that until the Bank's subscribed callable capital stock has been entirely called, such holding or use shall be subject to any limitations imposed pursuant to paragraph 2 (i) of this Article except in respect of obligations payable in the currency of the member concerned.

4. Gold or currencies held by the Bank shall not be used by the Bank to purchase other currencies of members or non-members, except:

- (i) in order to meet its obligations in the ordinary course of its business; or
- (ii) pursuant to a decision of the Board of Directors adopted by a vote of the Directors representing not less than two-thirds of the total voting power of the members.

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5. Nothing herein contained shall prevent the Bank from using the currency of any member for administrative expenses incurred by the Bank in the territory of such member.

ARTICLE 25

MAINTENANCE OF VALUE OF THE CURRENCY HOLDINGS OF THE BANK

1. Whenever (a) the par value in the International Monetary Fund of the currency of a member is reduced in terms of the dollar defined in Article 4 of this Agreement, or (&) in the opinion of the Bank, after consultation with the International Monetary Fund, the foreign exchange value of a member's currency has depreciated to a significant extent that member shall pay to the Bank within a reasonable time an additional amount of its currency required to maintain the value of all such currency held by the Bank, excepting (a) currency derived by the Bank from its borrowings and (b) unless otherwise provided in the agreement establishing such Funds, Special Funds resources accepted by the Bank under paragraph I (ii) of Article 19.

2. Whenever (a) the par value in the International Monetary Fund of the currency of a member is increased in terms of the said dollar, or (b) in the opinion of the Bank, after consultation with the International Monetary Fund, the foreign exchange value of a member's currency has appreciated to a significant extent, the Bank shall pay to that member within a reasonable time an amount of that currency required to adjust the value of all such currency held by the Bank excepting (a) currency derived by the Bank from its borrowings, and (b) unless otherwise provided in the agreement establishing such Funds, Special Funds resources accepted by the Bank under paragraph 1 (ii) of Article 19.

3. The Bank may waive the provisions of this Article when a uniform proportionate change in the par value of the currencies of all its members takes place.

Chapter VI

ORGANIZATION AND MANAGEMENT

ARTICLE 26

STRUCTURE

The Bank shall have a Board of Governors, a Board of Directors, a President, one or more Vice-Presidents and such other officers and staff as may be considered necessary.

ARTICLE 27

BOARD OF GOVERNORS : COMPOSITION

1. Each member shall be represented on the Board of Governors and shall appoint one Governor and one alternate. Each Governor and alternate shall serve at the pleasure of the appointing member. No alternate may vote except in the absence of his principal. At its annual meeting, the Board shall designate one of the Governors as Chairman who shall hold office until the election of the next Chairman and the next annual meeting of the Board.

2. Governors and alternates shall serve as such without remuneration from the Bank, but the Bank may pay them reasonable expenses incurred in attending meetings.

ARTICLE 28

BOARD OF GOVERNORS: POWERS

1. All the powers of the Bank shall be vested in the Board of Governors.
2. The Board of Governors may delegate to the Board of Directors any or all its powers, except the power to:
 - (i) admit new members and determine the conditions of their admission;
 - (ii) increase or decrease the authorized capital stock of the Bank;
 - (iii) suspend a member;
 - (iv) decide appeals from interpretations or applications of this Agreement given by the Board of Directors;

- (v) authorize the conclusion of general agreements for co-operation with other international organizations;
- (vi) elect the Directors and the President of the Bank;
- (vii) determine the remuneration of the Directors and their alternates and the salary and other terms of the contract of service of the President;
- (viii) approve, after reviewing the auditor's report, the general balance sheet and the statement of profit and loss of the Bank.
- (ix) determine the reserves and the distribution of the net profits of the Bank;
- (x) amend this Agreement;
- (xi) decide to terminate the operations of the Bank and to distribute its assets ; and
- (xii) exercise such other powers as are expressly assigned to the Board of Governors in this Agreement.

3. The Board of Governors shall retain full power to exercise authority over any matter delegated to the Board of Directors under paragraph 2 of this Article.

4. For the purposes of this Agreement, the Board of Governors may, by a vote of two-thirds of the total Dumber of Governors, representing not less than three-fourths of the total voting power of the members, from time to lime determine which countries or members of the Bank are to be regarded as developed or developing countries or members, taking into account appropriate economic considerations.

ARTICLE 29

BOARD OF GOVERNORS : PROCEDURE

1. The Baord of Governors shall hold an annual meeting and such other meetings *as* may be provided for by the Board or called by the Board of Directors. Meetings of the Board of Governors shall be called, by the Board of Directors, whenever requested by five (5) members of the Bank.

2. A majority of the Governors shall constitute a quorum for any meeting of the Board of Governors, provided such majority represents not less than two-thirds of the total voting power of the members.

3. The Board of Governors may by regulation establish a procedure whereby the Board of Directors may, when the latter deems such action advisable, obtain a vote of the Governors on a specific question without calling a meeting of the Board of Governors.

4. The Board of Governors, and the Board of Directors to the extent authorized, may established such subsidiary bodies as may be necessary or appropriate to conduct the business of the Bank.

ARTICLE 30

BOARD OF DIRECTORS: COMPOSITION

1. (i) The Board of Directors shall be composed of ten (10) members who shall not be members of the Board of Governors, and of whom:

- (a) seven (7) shall be elected by the Governors representing regional members ; and
- (b) three (3) by the Governors representing non-regional members.

Directors shall be persons of high competence in economic and financial mailers and shall be elected in accordance with Annex B hereof.

(ii) At the Second Annual Meeting of the Board of Governors after its inaugural meeting, the Board of Governors shall review the size and composition of the Board of Directors, and shall increase the number of Directors as appropriate, paying special regard to the desirability, in the circumstances at that time, of increasing representation in the Board of Directors of smaller less developed member countries. Decisions under this paragraph should be made by a vote of majority of the total number of Governors, representing not less than two-thirds of the total voting power of the members.

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2. Each Director shall appoint an alternate with full power to act for him when he is not present. Directors and alternate shall be nationals of member countries. No two or more Directors may be of the same nationality nor may any two or more alternates be of the same nationality. An alternate may participate in meetings of the Board but may vote only when he is acting in place of his principal.

3. Directors shall hold office for a term of two (2) years and may be re-elected. They shall continue in office until their successors shall have been chosen and qualified. If the office of a Director becomes vacant more than one hundred and eighty (180) days before the end of his term, a successor shall be chosen in accordance with Annex B hereof, for the remainder of the term, by the Governors who elected the former Director. A majority of the votes cast by such Governors shall be required for such election. If the office of a Director becomes vacant one hundred and eighty (180) days or less before the end of his term, a successor may similarly be chosen for the remainder of the term, by the Governor who elected the former Director, in which election a majority of the votes cast by such Governors shall be required. While the office remains vacant, the alternate of the former Director shall exercise the powers of the latter, except that of appointing an alternate.

ARTICLE 31

BOARD OF DIRECTORS: POWERS

The Board of Directors shall be responsible for the direction of the general operations of the Bank and, for this purpose, shall, in addition to the powers assigned to it expressly by this Agreement, exercise all the powers delegated to it by the Board of Governors, and in particular:

- (i) prepare the work of the Board of Governors;
- (ii) in conformity with the general directions of the Board of Governors, take decisions concerning loans, guarantees, investments in equity capital, borrowing by the Bank, furnishing of technical assistance and other operations of the Bank ;
- (iii) submit the accounts for each financial year for approval of the Board of Governors at each annual meeting; and
- (iv) approve the budget of the Bank.

ARTICLE 32

BOARD OF DIRECTORS: PROCEDURE

1. The Board of Directors shall normally function at the principal office of the Bank and shall meet as often as the business of the Bank may require.

2. A majority of the Directors shall constitute a quorum for any meeting of the Board of Directors, provided such majority represents not less than two-thirds of the total voting power of the members.

3. The Board of Governors shall adopt regulations under which, if there is no Director of its nationality, a member may send a representative to attend, without right to vote, any meeting of the Board of Directors when a matter particularly affecting that member is under consideration.

ARTICLE 33

VOTING

1. The total voting power of each member shall consist of the sum of its basic votes and proportional votes.

- (i) The basic votes of each member shall consist of such number of votes as results from the equal distribution among all the members of twenty (20) per cent of the aggregate sum of the basic votes and proportional votes of all the members.
- (ii) The number of the proportional votes of each member shall be equal to the number of shares of the capital stock of the Bank held by that member.

2. In voting in the Board of Governors, each Governor shall be entitled to cast the votes of the member he represents. Except as otherwise expressly provided in this Agreement, all matters before the Board of Governors shall be decided by a majority of the voting power represented at the meeting.

3. In voting in the Board of Directors, each Director shall be entitled to cast the number of votes that counted towards his election which votes need not be cast as a unit. Except as otherwise expressly provided in this Agreement, all matters before the Board of Directors shall be decided by a majority of the voting power represented at the meeting.

ARTICLE 34

THE PRESIDENT

1. The Board of Governors, by a vote of a majority of the total number of Governors, representing not less than a majority of the total voting power of the members, shall elect a President of the Bank. He shall be a national of a regional member country. The President, while holding office, shall not be a Governor or a Director or an alternate for either.

2. The term of office of the President shall be five (5) years. He may be re-elected. He shall, however, cease to hold office when the Board of Governors so decides by a vote of two-thirds of the total number of Governors, representing not less than two-thirds of the total voting power of the members. If the office of the President for any reason becomes vacant more than one hundred and eighty (180) days before the end of his term, a successor shall be elected for the unexpired portion of such term by the Board of Governors in accordance with the provisions of paragraph 1 of this Article. If such office for any reason becomes vacant one hundred and eighty (180) days or less before the end of the term, a successor may similarly be elected for the unexpired portion of such term by the Board of Governors.

3. The President shall be Chairman of the Board of Directors but shall have no vote, except a deciding vote in case of an equal division. He may participate in meetings of the Board of Governors but shall not vote,

4. The President shall be the legal representative of the Bank.

5. The President shall be chief of the staff of the Bank and shall conduct, under the direction of the Board of Directors, the current business of the Bank. He shall be responsible for the organization, appointment and dismissal of the officers and staff in accordance with regulations adopted by the Board of Directors.

6. In appointing the officers and staff, the President shall, subject to the paramount importance of securing the highest standards of efficiency and technical competence, pay due regard to the recruitment of personnel on as wide a regional geographical basis as possible.

ARTICLE 35

VICE-PRESIDENT (S)

1. One or more Vice-Presidents shall be appointed by the Board of Directors on the recommendation of the President. Vice-President (s) shall hold office for such term, exercise such authority and perform such functions in the administration of the Bank, as may be determined by the Board of Directors. In the absence or incapacity of the President, the Vice-President or, if there be more than one, the ranking Vice-President, shall exercise the authority and perform the functions of the President.

2. Vice-President (s) may participate in meetings of the Board of Directors but shall have no -vote at such meetings, except that the Vice-President or ranking Vice-President, as the case may be, shall cast the deciding vote when acting in place of the President.

ARTICLE 36

PROHIBITION OF POLITICAL ACTIVITY: THE INTERNATIONAL CHARACTER OF THE BANK

1. The Bank shall not accept loans or assistance that may in any way prejudice, limit, deflect or otherwise alter its purpose or functions.

2. The Bank, its President, Vice-President (s), officers and staff shall not interfere in the political affairs of any member nor shall they be influenced in their decisions by the political character of the member concerned. Only economic considerations shall be relevant to their decisions. Such considerations shall be weighed impartially in order to achieve and carry out the purpose and functions of the Bank.

3. The President, Vice-President (s), officers and staff of the Bank, in the discharge of their offices, owe their duty entirely to the Bank and to no other authority. Each member of the Bank shall respect the international character of this duty and shall refrain from all attempts to influence any of them in the discharge of their duties.

ARTICLE 37

OFFICE OF THE BANK

1. The principal office of the Bank shall be located in Manila, Philippines,
2. The Bank may establish agencies or branch offices elsewhere.

ARTICLE 38

CHANNEL OF COMMUNICATIONS, DEPOSITORIES

1. Each member shall designate an appropriate official entity with which the Bank may communicate in connexion with any matter arising under this Agreement.
2. Each member shall designate its central bank, or such other agency as may be agreed upon with the Bank, as a depository with which the Bank may keep its holdings of currency of that member as well as other assets of the Bank.

ARTICLE 39

WORKING LANGUAGE, REPORTS

1. The working language of the Bank shall be English.
2. The Bank shall transmit to its members an Annual Report containing an audited statement of its accounts and shall publish such Report. It shall also transmit quarterly to its members a summary statement of its financial position and a profit and loss statement showing the results of its operations.
3. The Bank may also publish such other reports as it deems desirable in the carrying out of its purpose and functions. Such reports shall be transmitted to the members of the Bank.

ARTICLE 40

ALLOCATION OF NET INCOME

1. The Board of Governors shall determine annually what part of the net income of the Bank, including the net income accruing to Special Funds, shall be allocated, after making provision for reserves, to surplus and what part, if any, shall be distributed to the members.
2. The distribution referred to in the preceding paragraph shall be made in proportion to the number of shares held by each member.
3. Payments shall be made in such manner and in such currency as the Board of Governors shall determine.

Chapter VII

WITHDRAWAL AND SUSPENSION OF MEMBERS, TEMPORARY SUSPENSION AND
TERMINATION OF OPERATIONS OF THE BANK.

ARTICLE 41

WITHDRAWAL

1. Any member may withdraw from the Bank at any time by delivering a notice in writing to the Bank at its principal office.
2. Withdrawal by a member shall become effective, and its membership shall cease, on the date specified in its notice but in no event less than six (6) months after the date that notice has been received by the Bank. However, at any time before the withdrawal becomes finally effective, the member may notify the Bank in writing of the cancellation of its notice of intention to withdraw.
3. A withdrawing member shall remain liable for all direct and contingent obligations to the Bank to which it was subject at the date of delivery of the withdrawal notice. If the withdrawal becomes finally effective, the member shall not incur any liability for obligations resulting from operations of the Bank effected after the date on which the withdrawal notice was received by the Bank.

ARTICLE 42

SUSPENSION OF MEMBERSHIP

1. If a member fails to fulfil any of its obligations to the Bank, the Board of Governors may suspend such member by a vote of two-thirds of the total number of Governors, representing not less than three-fourths of the total voting power of the members.
2. The member so suspended shall automatically cease to be a member of the Bank one (1) year from the date of its suspension unless the Board of Governors, during that one-year period, decides by the same majority necessary for suspension to restore the member to good standing.
- 3- While under suspension, a member shall not be entitled to exercise any rights under this Agreement, except the right of withdrawal, but shall remain subject to all its obligations.

ARTICLE 43

SETTLEMENT OF ACCOUNTS

1. After the date on which a country ceases to be a member, it shall remain liable for its direct obligations to the Bank and for its contingent liabilities to the Bank so long as any part of the loans or guarantees contracted before it ceased to be a member is outstanding; but it shall not incur liabilities with respect to loans and guarantees entered into thereafter by the Bank nor share either in the income or the expenses of the Bank.
2. At the time a country ceases to be a member, the Bank shall arrange for the repurchase of such country's shares by the Bank as a part of the settlement of accounts with such country in accordance with the provisions of paragraphs 3 and 4 of this Article. For this purpose, the repurchase price of the shares shall be the value shown by the books of the Bank on the date the country ceases to be a member.
3. The payment for shares repurchased by the Bank under this Article shall be governed by the following conditions:
 - (i) Any amount due to the country concerned for its shares shall be withheld so long as that country, its central bank or any of its agencies, instrumentalities or political subdivisions remains liable, as borrower or guarantor, to the Bank and such amount may, at the option of the Bank, be applied on any such liability as it matures. No amount shall be withheld on account of the contingent liability of the country for future calls on its subscription for shares in accordance with paragraph 5 of Article 6 of this Agreement. In any event, no amount due to a member for its shares shall be paid until six (6) months after the date on which the country ceases to be a member.
 - (ii) Payments for shares may be made from time to time, upon surrender of the corresponding stock certificates by the country concerned, to the extent by which the amount due as the repurchase price in accordance with paragraph 2 of this Article exceeds the aggregate amount of liabilities on loans and guarantees referred to in sub-paragraph (i) of this paragraph, until the former member has received the full repurchase price.
 - (iii) Payments shall be made in such available currencies as the Bank determines, taking into account its financial position.
 - (iv) If losses are sustained by the Bank on any guarantees or loans which were outstanding on the date when a country ceased to be a member and the amount of such losses exceeds the amount of the reserve provided against losses on that date, the country concerned shall repay, upon demand, the amount by which the repurchase price of its shares would have been reduced if the losses had been taken into account when the repurchase price was determined. In addition, the former member shall remain liable on any call for unpaid subscriptions in accordance with paragraph 5 of Article 6 of this Agreement, to the same extent that it would have been required to respond if the impairment of capital had occurred and the call had been made at the time the repurchase price of its shares was determined.
4. If the Bank terminates its operations pursuant to Article 45 of this Agreement within six (6) months of the date upon which any country ceases to be a member, all rights of the country concerned shall be determined in accordance with the provisions of Articles 45 to 47 of this Agreement. Such country shall be considered as still member for purposes of such Articles but shall have no voting rights.

ARTICLE 44

TEMPORARY SUSPENSION OF OPERATIONS

In an emergency, the Board of Directors may temporarily suspend operations in respect of new loans and guarantees, pending an opportunity for further consideration and action by the Board of Governors.

Cap. 314] **ASIAN DEVELOPMENT BANK AGREEMENT (RATIFICATION)**

ARTICLE 45

TERMINATION OF OPERATIONS

1. The Bank may terminate its operations by a resolution of the Board of Governors approved by a vote of two-thirds of the total number of Governors, representing not less than three-fourths of the total voting power of the members.

2. After such termination, the Bank shall forthwith cease all activities, except those incident to the orderly realization, conservation and preservation of its assets and settlement of its obligations.

ARTICLE 46

LIABILITY OF MEMBERS AND PAYMENT OF CLAIMS

1. In the event of termination of the operations of the Bank, the liability of all members for uncalled subscriptions to the capital stock of the Bank and in respect of the depreciation of their currencies shall continue until all claims of creditors, including all contingent claims, shall have been discharged.

2. All creditors holding direct claims shall first be paid out of the assets of the Bank and then out of payments to the Bank on unpaid or callable subscriptions. Before making any payments to creditors holding direct claims, the Board of Directors shall make such arrangements as are necessary, in its judgment, to ensure a *pro rata* distribution among holders of direct and contingent claims.

ARTICLE 47

DISTRIBUTION OF ASSETS

1. No distribution of assets shall be made to members on account of their subscriptions to the capital stock of the Bank until all liabilities to creditors shall have been discharged or provided for. Moreover, such distribution must be approved by the Board of Governors by a vote of two-thirds of the total number of Governors, representing not less than three-fourths of the total voting power of the members.

2. Any distribution of the assets of the Bank to the members shall be in proportion to the capital stock held by each member and shall be effected at such times and under such conditions as the Bank shall deem fair and equitable. The shares of assets distributed need not be uniform as to type of asset. No member shall be entitled to receive its share in such a distribution of assets until it has settled all of its obligations to the Bank.

3. Any member receiving assets distributed pursuant to this Article shall enjoy the same rights with respect to such assets as the Bank enjoyed prior to their distribution.

Chapter VIII

STATUS, IMMUNITIES, EXEMPTIONS AND PRIVILEGES

ARTICLE 48

PURPOSE OF CHAPTER

To enable the Bank effectively to fulfil its purpose and carry out the functions entrusted to it, the status, immunities, exemptions and privileges set forth in this Chapter shall be accorded to the Bank in the territory of each member.

ARTICLE 49

LEGAL STATUS

The Bank shall possess full juridical personality and, in particular, full capacity :

- (i) to contract;
- (ii) to acquire, and dispose of, immovable and movable property; and
- (iii) to institute legal proceedings.

ARTICLE 50

IMMUNITY FROM JUDICIAL PROCEEDINGS

1. The Bank shall enjoy immunity from every form of legal process, except in cases arising out of or in connexion with the exercise of its powers to borrow money, to guarantee obligations, or to buy and sell or underwrite the sale of securities, in which cases actions may be brought against the Bank in a court of competent Jurisdiction in the territory of a country in which the Bank has its principal or a branch office, or has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.

2. Notwithstanding the provisions of paragraph 1 of this Article, no action shall be brought against the Bank by any member, or by any agency or instrumentality of a member, or by any entity or person directly or indirectly acting for or deriving claims from a member or from any agency or instrumentality of a member. Members shall have recourse to such special procedures for the settlement of controversies between the Bank and its members as may be prescribed in this Agreement, in the by-laws and regulations of the Bank, or in contracts entered into with the Bank.

3. Property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

ARTICLE 51

IMMUNITY OF ASSETS

Property and assets of the Bank, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

ARTICLE 52

IMMUNITY OF ARCHIVES

The archives of the Bank and, in general, all documents belonging to it, or held by it, shall be inviolable, wherever located.

ARTICLE 53

FREEDOM OF ASSETS FROM RESTRICTIONS

To the extent necessary to carry out the purpose and functions of the Bank effectively, and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature.

ARTICLE 54

PRIVILEGE FOR COMMUNICATIONS

Official communications of the Bank shall be accorded by each member treatment not less favourable than that it accords to the official communications of any other member.

ARTICLE 55

IMMUNITIES AND PRIVILEGES OF BANK PERSONNEL

All Governors, Directors, alternates, officers and employees of the Bank, including experts performing missions for the Bank:

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity, except when the Bank waives the immunity;
- (ii) where they are not local citizens or nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations, and the same facilities as regards exchange regulations, as are accorded by members to the representatives, officials and employees of comparable rank of other members ; and
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

ARTICLE 56

EXEMPTION FROM TAXATION

1. The Bank, its assets, property, income and its operations and transactions, shall be exempt from all taxation and from all customs duties. The Bank shall also be exempt from any obligation for the payment, withholding or collection of any tax or duty.

2. No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to Directors, alternates, officers or employees of the Bank, including experts performing missions for the Bank, except where a member deposits with its instrument of ratification or acceptance a declaration that such member retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to citizens or nationals of such member.

3. No tax of any kind shall be levied on any obligation or security issued by the Bank, including any dividend or interest thereon, by whomsoever held :

- (i) which discriminates against such obligation or security solely because it is issued by the Bank ; or
- (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

4. No tax of any kind shall be levied on any obligation or security guaranteed by the Bank, including any dividend or interest thereon, by whomsoever held :

- (i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or
- (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

ARTICLE 57

IMPLEMENTATION

Each member, in accordance with its juridical system, shall promptly take such action as is necessary to make effective in its own territory the provisions set forth in this Chapter and shall inform the Bank of the action which it has taken on the matter.

ARTICLE 58

WAIVER OF IMMUNITIES, EXEMPTIONS AND PRIVILEGES

The Bank at its discretion may waive any of the privileges, immunities and exemptions conferred under this Chapter in any case or instance, in such manner and upon such conditions as it may determine to be appropriate in the best interests of the Bank.

Chapter IX

AMENDMENTS, INTERPRETATION, ARBITRATION

ARTICLE 59

AMENDMENTS

1. This Agreement may be amended only by a resolution of the Board of Governors approved by a vote of two-thirds of the total number of Governors, representing not less than three-fourths of the total voting power of the members.

2. Notwithstanding the provisions of paragraph 1 of this Article, the unanimous agreement of the Board of Governors shall be required for the approval of any amendment modifying;

- (i) the right to withdraw from the Bank;
- (ii) the limitations on liability provided in paragraphs 6 and 7 of Article 5 ; and
- (iii) the rights pertaining to purchase of capital stock provided in paragraph 2 of Article 5.

3. Any proposal to amend this Agreement, whether emanating from a member or the Board of Directors, shall be communicated to the Chairman of the Board of Governors, who shall bring the proposal before the Board of Governors. When an amendment has been adopted, the Bank shall so certify in an official communication addressed to all members. Amendments shall enter into force for all members three (3) months after the date of the official communication unless the Board of Governors specifies therein a different period.

ARTICLE 60

INTERPRETATION OR APPLICATION

1. Any question of interpretation or application of the provisions of this Agreement arising between any member and the Bank, or between two or more members of the Bank, shall be submitted to the Board of Directors for decision. If there is no Director of its nationality on that Board, a member particularly by the question under consideration shall be entitled to direct representation in the Board of Directors during such consideration; the representative of such members shall, however, have no vote. Such right of representation shall be regulated by the Board of Governors.

2. In any case where the Board of Directors has given a decision under paragraph 1 of this Article, any member may require that the question be referred to the Board of Governors, whose decision shall be final. Pending the decision of the Board of Governors, the Bank may, so far as it deems it necessary, act on the basis of the decision of the Board of Directors.

ARTICLE 61

ARBITRATION

If a disagreement should arise between the Bank and a country which has ceased to be a member, or between the Bank and any member, after adoption of a resolution to terminate the operations of the Bank, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators. One of the arbitrators shall be appointed by the Bank, another by the country concerned, and the third, unless the parties otherwise agree, by the President of the International Court of Justice or such other authority as may have been prescribed by regulations adopted by the Board of Governors. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the parties. The third arbitrator shall be empowered to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

ARTICLE 62

APPROVAL DEEMED GIVEN

Whenever the approval of any member is required before any act may be done by the Bank, approval shall be deemed to have been given unless the member presents an objection within such reasonable period as the Bank may fix in notifying the member of the proposed act.

Chapter X

FINAL PROVISIONS

ARTICLE 63

SIGNATURE AND DEPOSIT

1. The original of this Agreement in a single copy in the English Language shall remain open for signature at the United Nations Economic Commission for Asia and the Far East, in Bangkok, until 31 January 1966 by Governments of countries listed in Annex A to this Agreement. This document shall thereafter be deposited with the Secretary-General of the United Nations (hereinafter called the " Depository ").

2. The Depository shall send certified copies of this Agreement to all the Signatories and other countries which become members of the Bank.

ARTICLE 64

RATIFICATION OR ACCEPTANCE

1. This Agreement shall be subject to ratification or acceptance by the Signatories. Instruments of ratification or acceptance shall be deposited with the Depository not later than 30 September 1966. The Depository shall duly notify the other Signatories of each deposit and the date thereof.

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1. A Signatory whose instrument of ratification or acceptance is deposited before the date on which this Agreement enters into force, shall become a member of the Bank on that date. Any other Signatory which complies with the provisions of the preceding paragraph, shall become a member of the Bank on the date on which its instrument of ratification or acceptance is deposited.

ARTICLE 65

ENTRY INTO FORCE

This Agreement shall enter into force when instruments of ratification or acceptance have been deposited by at least fifteen (15) Signatories (including not less than ten [10] regional countries) whose initial subscriptions, as set forth in Annex A to this Agreement, in the aggregate comprise not less than sixty-five (65) per cent of the authorized capital stock of the Bank.

ARTICLE 66

COMMENCEMENT OF OPERATIONS

1. As soon as this Agreement enters into force, each member shall appoint a Governor, and the Executive Secretary of the United Nations Economic Commission for Asia and the Far East shall call the inaugural meeting of the Board of Governors.

2. At its inaugural meeting, the Board of Governors :

- (i) shall make arrangements for the election of Directors of the Bank in accordance with paragraph I of Article 30 of this Agreement; and
- (ii) shall make arrangements for the determination of the date on which the Bank shall commence its operations.

3. The Bank shall notify its members of the date of the commencement of its operations.

DONE at the City of Manila, Philippines, on 4 December 1965, in a single copy in the English Language which shall be brought to the United Nations Economic Commission for Asia and the Far East, Bangkok, and thereafter deposited with the Secretary-General of the United Nations, New York, in accordance with Article 63 of this Agreement.

ANNEX A

INITIAL SUBSCRIPTIONS TO THE AUTHORIZED CAPITAL STOCK FOR COUNTRIES WHICH MAY BECOME MEMBERS IN ACCORDANCE WITH ARTICLE 64

PART A. REGIONAL COUNTRIES

Country	<i>Amount of subscription (in million U.S. dollars)</i>
1. Afghanistan	3.36
2. Australia	85.00
3. Cambodia	3.00
4. Ceylon*	8.52
5. China, Republic of	16.00
6. India	93.00
7. Iran	60.00
8. Japan	200.00
9. Korea, Republic of	30.00
10. Laos	0.42
11. Malaysia	20.00
12. Nepal	2.16
13. New Zealand	22.56
14. Pakistan	32.00
15. Philippines	35.00
16. Republic of Viet-Nam	7.00
17. Singapore	4.00
18. Thailand	20.00
19. Western Samoa	0.06
Total ..	642.08

* Now Sri Lanka.

ASIAN DEVELOPMENT BANK AGREEMENT (RATIFICATION) [Cap. 314

The following regional countries may become Signatories of this Agreement in accordance with Article 63, provided that at the time of signing, they shall respectively subscribe to the capital stock of the Bank in the following amounts:—

<i>Country</i>	<i>Amount a/subscription (in million U.S. dollars)</i>		
1. Burma	7 74
2. Mongolia	Q lg
		Total ..	7.92

PART B. NON-REGIONAL COUNTRIES

<i>Country</i>	<i>Amount of subscription (in million U.S. dollars)</i>
1. Belgium	5.00
2. Canada	25.00
3. Denmark	5.00
4. Germany, Federal Republic of	30.00
5. Italy	10.00
6. Netherlands	11.00
7. United Kingdom	10.00
8. United States	200.00
	Total .. 296.00

The following non-regional countries which participated in the meeting of the Preparatory Committee on the Asian Development Bank in Bangkok from 21 October to 1 November, 1965 and which there indicated interest in membership in the Bank, may become Signatories of this Agreement in accordance with Article 63, provided that at the time of signing, each such country shall subscribe to the capital stock of the Bank in an amount which shall not be less than five million dollars (\$5,000,000):

1. Austria
2. Finland
3. Norway
4. Sweden

III

On or before 31 January, 1966, any of the non-regional countries listed in Part B (1) of this Annex may increase the amount of its subscription by so informing the Executive Secretary of the United Nations Economic Commission for Asia and the Far East in Bangkok, provided, however, that the total amount of the initial subscriptions of the non-regional countries listed in Part B (I) and (II) of this Annex shall not exceed the amount of three hundred and fifty million dollars (\$350,000,000).

ANNEX B

ELECTION OF DIRECTORS

SECTION A. ELECTION OF DIRECTORS BY GOVERNORS REPRESENTING REGIONAL MEMBERS

(1) Each Governor representing a regional member shall cast all votes of the member he represents for a single person.

(2) The seven (7) persons receiving the highest number of votes shall be Directors, except that no person who receives less than ten (10) per cent of the total voting power of regional members shall be considered as elected.

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(3) If seven (7) persons are not elected at the first ballot, a second ballot shall be held in which the person who received the lowest number of votes in the preceding ballot shall be ineligible and in which votes shall be cast only by:

- (a) Governors who voted in the preceding ballot for a person who is not elected ; and
- (b) Governors whose votes for a person who is elected are deemed, in accordance with paragraph 4 of this Section, to have raised the votes cast for that person above eleven (11) per cent of the total voting power of regional members.

(4) (a) In determining whether the votes cast by a Governor shall be deemed to have raised the total number of votes for any person above eleven (11) per cent, the said eleven (11) per cent shall be deemed to include, first, the votes of the Governor casting the highest number of votes for that person, and then, in diminishing order, the votes of each Governor casting the next highest number until eleven (11) per cent is attained.

(b) Any Governor, part of whose votes must be counted in order to raise the votes cast for any person above ten (10) per cent, shall be considered as casting all his votes for that person even if the total number of votes cast for that person thereby exceeds eleven (11) per cent.

(5) If, after the second ballot, seven (7) persons are not elected, further ballots shall be held in conformity with the principles and procedures laid down in this Section, except that after six (6) persons are elected, the seventh may be elected—notwithstanding the provisions of paragraph (2) of this Section— by a simple majority of the remaining votes of regional members. All such remaining votes shall be deemed to have counted towards the election of the seventh Director.

(6) In case of an increase in the number of Directors to be elected by Governors representing regional members, the minimum and maximum percentages specified in paragraphs (2), (3), and (4) of Section A of this Annex shall be correspondingly adjusted by the Board of Governors.

SECTION 8. ELECTION OF DIRECTORS BY GOVERNORS REPRESENTING NON-REGIONAL MEMBERS

(1) Each Governor representing a non-regional member shall cast all votes of the member he represents for a single person.

(2) The three (3) persons receiving the highest number of votes shall be Directors, except that no person who receives less than twenty-five (25) per cent of the total voting power of non-regional members shall be considered as elected.

(3) If three (3) persons are not elected at the first ballot, a second ballot shall be held in which the person who received the lowest number of votes in the preceding ballot shall be ineligible and in which votes shall be cast only by:

- (a) Governors who voted in the preceding ballot for a person who is not elected ; and
- (b) Governors whose votes for a person who is elected are deemed, in accordance with paragraph (4) of this Section, to have raised the votes cast for that person above twenty-six (26) per cent of the total voting power of non-regional members.

(4) (a) In determining whether the votes cast by a Governor shall be deemed to have raised the total number of votes for any person above twenty-six (26) per cent, the said twenty-six (26) per cent shall be deemed to include, first, the votes of the Governor casting the highest number of votes for that person, and then, in diminishing order, the votes of each Governor casting the next highest number until twenty-six (26) per cent is attained.

(b) Any Governor, part of whose votes must be counted in order to raise the votes cast for any person above twenty-six (26) per cent, shall be considered as casting all his votes for that person even if the total number of votes cast for that person thereby exceeds twenty-six (26) per cent.

(5) If, after the second ballot, three (3) persons are not elected, further ballots shall be held in conformity with the principles and procedures laid down in this Section, except that after two (2) persons are elected, a third may be elected — provided that subscriptions from non-regional members shall have reached a minimum total of \$345 million, and notwithstanding the provisions of paragraph (2) of this Section—by a simple majority of the remaining votes. All such remaining votes shall be deemed to have counted towards the election of the third Director.

(6) In the case of an increase in the number of directors to be elected by Governors representing non-regional members, the minimum and maximum percentages specified in paragraphs (2), (3) and (4) of Section B of this Annex shall be correspondingly adjusted by the Board of Governors.

CHAPTER 223

ATOMIC ENERGY AUTHORITY

Ait
No. 19 of 1969.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF AN ATOMIC ENERGY AUTHORITY AND AN ADVISORY COMMITTEE TO ADVISE SUCH AUTHORITY. TO SPECIFY THE POWERS, DUTIES, RIGHTS AND FUNCTIONS OF SUCH AUTHORITY, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[25th.June. 1969.]

Short title.

1. This Act may be cited as the Atomic Energy Authority Act.

may resign his office by letter addressed to the Minister. He shall, on vacating his office, be eligible, so long as he is a member of the Authority, for reappointment.

Establishment of the Atomic Energy Authority,

2. (1) There shall be established an Authority which shall be called the Atomic Energy Authority (hereinafter in this Act referred to as the " Authority ").

6. Where the Minister, in consultation with the Minister in charge of the subject of Finance, decides that remuneration should be paid to each member of the Authority and determines the remuneration to be so paid, the Authority shall pay such remuneration.

Remuneration of members of the Authority.

(2) The Authority shall consist of not less than four and not more than seven members appointed by the Minister from among persons who appear to the Minister to have had experience and shown capacity in dealing with matters connected with atomic energy, administration or finance.

7. Where any member, other than the Chairman, of the Authority is employed about the affairs of the Authority otherwise than as such member, the Authority shall pay to that member such remuneration, if any, (in addition to any remuneration to which he may be entitled in respect of his office as such member), as the Minister may, in consultation with the Minister in charge of the subject of Finance, determine.

Remuneration for employment of members of the Authority otherwisethan as such member.

Disqualification for being appointed or being member of the Authority.

3. A person shall be disqualified for, being appointed or being a member of the Authority so long as he is a Member of Parliament.

Term of office of members of the Authority,

4. (1) Every member of the Authority shall hold and vacate his office in accordance with the terms of his appointment, but he may resign his office by letter addressed to the Minister. He shall, on ceasing to be a member, be eligible for reappointment.

8. The Authority shall, by the name assigned to it by subsection (I) of section 2, be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

The Authority to be a corporation.

(2) The Minister may, if he thinks it expedient to do so, remove from office any member of the Authority.

9. The seat of the Authority—

Seal of the Authority.

Chairman-of the Authority.

5. (1) The Minister shall appoint one of the members of the Authority to be its Chairman.

(a) shall be in the custody of such person as the Authority may from time to time determine ;

(2) The Chairman of the Authority shall hold and vacate his office in accordance with the terms of his appointment, but he

(b) may be altered in such manner as may be determined by the Authority; and

(c) shall not be affixed to any document except with the sanction of the Authority and in the presence of two members of the Authority who shall sign the document in token of their presence.

The Authority may acquire and hold properly, raise loans, appoint the necessary staff, &c.

10. (1) The Authority may acquire, hold, take or give on lease or hire, mortgage, pledge and sell or otherwise dispose of any movable or immovable property.

(2) The Authority may appoint such officers and servants as may be necessary for the performance of the work of the Authority. The conditions of employment, including remuneration, of any officer or servant appointed under this subsection shall be determined by the Authority.

(3) The Authority may do such other things as are incidental or conducive to the attainment of its purposes.

Quorum.

11. The quorum for a meeting of the Authority shall be three.

The Authority may act despite vacancy

12. The Authority may act notwithstanding a vacancy among its members so long as the number of members of the Authority is sufficient to constitute a quorum for a meeting of the Authority.

Disclosure of interest of a member of the Authority in a contract made or proposed to be made by the Authority.

13. (1) A member of the Authority who is directly or indirectly interested in a contract made or proposed to be made by the Authority shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest at a meeting of the Authority.

(2) Any disclosure made by a member of the Authority under subsection (1) shall be recorded in the minutes of the Authority and that member—

(a) shall not take part after the disclosure in any deliberation or decision of the Authority with respect to the contract to which the disclosure relates, and

(b) shall be disregarded for the purpose of constituting a quorum of the Authority for any such deliberation or decision.

14. Subject to the other provisions of this Act, the Authority may regulate its procedure. The Authority may regulate its procedure.

15. (1) The Authority shall undertake and make arrangements for the conduct of research and development activities relating to— Functions of the Authority

(a) the production of atomic energy, including processes, materials, and devices relating to such production ;

(b) the utilization of fissionable and radioactive materials for medical, agricultural, industrial and other peaceful purposes;

(c) the protection of health during such research and development activities;

(d) the protection of health of persons employed at premises or places in which any radioactive materials are manufactured, produced, treated, stored or used or any irradiating apparatus is used, and the prevention of injury caused by ionizing radiations to the health of other persons; and

(e) the protection of health of persons transporting radioactive materials.

(2) The arrangements referred to in subsection (1) shall contain such provisions to protect health, to minimize danger from explosion and other hazards to life and property, and to require the reporting and to permit the inspection of work performed thereunder, as the Authority may determine.

16. The Authority shall have power— Powers of the Authority in regard to the production, use and disposal of atomic energy, &c.

(a) to produce, use and dispose of atomic energy and carry out research into any matters connected therewith;

(ft) to manufacture or otherwise produce, buy or otherwise acquire, store and transport any article which in the opinion of the Authority is, or is likely to be, required for or in connexion with

the production or use of atomic energy or such research as aforesaid, and to dispose of any article manufactured, produced, bought or otherwise acquired by the Authority;

- (c) to manufacture or otherwise produce, buy or otherwise acquire, treat, store, transport and dispose of any radioactive material;
- (d) to do all such things (including the erection of buildings and the execution of works) as appear to the Authority necessary for the exercise of the aforementioned powers;
- (e) to make arrangements with universities and other institutions or persons both in Sri Lanka and abroad and Government Departments for the conduct of research into matters connected with atomic energy or radioactive materials and, with the approval of the Minister given in consultation with the Minister in charge of the subject of Finance, to make grants or loans to universities and other institutions or persons and Government Departments engaged in the production or use of atomic energy or radioactive materials or in research into matters connected with atomic energy or radioactive materials;
- (f) to make available for use in connexion with such research or production conducted or carried out by any institution or person other than the Authority such of the Authority's equipment and facilities as the Authority may determine; and
- (g) to distribute information relating to, and educate and train persons in matters connected with, atomic energy or radioactive materials.

person to make such returns, at such times, and containing such particulars as may be specified in the notice, of all or any of the following:—

- (a) any such radioactive material specified in the notice as is in his possession or under his control;
- (b) any plant in his possession or under his control designed or adapted for the production or use of atomic energy or research into matters connected therewith;
- (c) any contract entered into by him or any right granted by or to him relating to the production or use of atomic energy or research into matters connected therewith ; and
- (d) any other information in his possession relating to any work carried out by him, or on his behalf or under his direction, in connexion with the production or use of atomic energy or research into matters connected therewith.

(2) Any person who -

- (a) fails to comply with any notice served on him under subsection (1), or
- (b) knowingly makes any untrue statement in any return made in pursuance of such notice,

shall be guilty of an offence.

18. (1) The Authority may by Order published in the Gazette make such provision as it thinks expedient for prohibiting or regulating, subject to such exceptions, if any, as may be made by or under the Order—

- (a) the importation into, or exportation from, Sri Lanka of all radioactive materials, or radioactive materials of any class or description specified in the Order;

Control of importation, exportation, production, acquisition, treatment, storage, transport and disposal of radioactive materials.

Power to obtain information.

17. (1) Any officer authorized in that behalf by the Authority may by written notice served on any person require such

- (b) the production, acquisition, treatment, storage, transport and disposal of any radioactive material; and
- (c) the acquisition, production, possession, use, disposal, export or import of any plant designed or adapted for the production or use of atomic energy or for research into matters connected therewith.

(2) Any person who contravenes or fails to comply with an Order made under subsection (1) shall be guilty of an offence.

Regulations for the control of the sale and supply of radioactive materials and of the use of irradiating apparatus, for certain purposes.

19. (1) Regulations may be made, in consultation with the Minister in charge of the subject of Health, regarding—

- (a) the sale or supply of any material which contains more than a specified quantity of a radioactive chemical element (whether natural or artificial) and is intended to be taken internally by, injected into or applied to, a human being, with particular regard to the qualifications, and including if necessary the licensing, of persons who sell and supply such materials ; and
- (b) the use, for the purpose of the medical, surgical or dental diagnosis or treatment of human beings, of any, or any specified class or description of, irradiating apparatus, with particular regard to the qualifications, and including, if necessary, the licensing of persons who so use such apparatus.

(2) Any person who contravenes or fails to comply with a regulation made for the purposes of this section shall be guilty of an offence.

Safety regulations for certain occupations.

20. (1) With respect to any class or description of premises or places specified in the regulations, being premises or places in which any radioactive materials are manufactured, produced, treated, stored or used or any irradiating apparatus is used, provision may be made by regulations—

- (a) to prevent injury being caused by ionizing radiations to the health of persons employed at those premises or places or other persons;
- (b) to secure that any radioactive waste products resulting from such manufacture, production, treatment, storage or use as aforesaid are disposed of safely;
- (c) for the enforcement of measures of environmental protection in respect of persons who reside in areas where work is carried on in regard to any source of ionizing radiation, including measures for imposing requirements as to the erection or structural alteration of buildings or the carrying out of works; or
- (d) for the effective monitoring of equipment, materials and environment, and the medical examination and the treatment, both prophylactic and curative, of persons who are exposed to ionizing radiation;

and the regulations may, in particular and without prejudice to the generality of this subsection, provide for imposing requirements as to the erection or structural alteration of buildings or the carrying out of works.

(2) With respect to the transport of any radioactive materials, regulations may be made to prevent injury being caused by such transport to the health of persons engaged therein and other persons.

(3) Regulations made for the purposes of this section may provide for imposing requirements, prohibitions and restrictions on employers, employees and other persons.

(4) Any person who contravenes or fails to comply with a regulation made for the purposes of this section shall be guilty of an offence.

21. (1) The officers and servants of the Authority may, without any such licence, permit or approval as may be required by any other written law, maintain and use, on

Use of installations, equipment and materials for laboratory or experimental purposes.

any premises lawfully occupied by the Authority for laboratory or experimental purposes, such installations, equipment, and materials as they may consider necessary or desirable for those purposes.

(2) The provisions of subsection (1) shall not be deemed to relieve the Authority of responsibility for taking reasonable precautions for the safety and protection of persons and property or for liability for the consequence of the acts of its officers and servants in the course of their employment.

No atomic weapon to be produced or developed.

22. (1) The Authority or any other persons shall not produce or develop, or cause the production or development of, any atomic weapon or part of an atomic weapon, or conduct or cause to be conducted experimental work with the intention that it shall lead to explosive nuclear assemblies for atomic weapons.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence punishable with imprisonment not exceeding twenty years on conviction after trial by an appropriate court.

Powers of entry and inspection.

23. (1) The Secretary to the Ministry may, on the recommendation of the Authority, authorize in writing any person to enter at all reasonable hours any premises, (other than premises solely used for residential purposes), vehicle, vessel or aircraft for the purpose of ascertaining whether there has been committed, or is being committed, in or in connexion with the premises, vehicle, vessel or aircraft an offence under this Act.

(2) The Secretary to the Ministry may, on the recommendation of the Authority, authorize in writing any person to enter at all reasonable hours any premises where such person has reasonable grounds for believing that work is being carried out for the purposes of or in connexion with the production or use of atomic energy or research into matters connected therewith, or that there is any prescribed substance, or any plant designed or adapted for the production or use of atomic energy or research into matters connected therewith, and may inspect the premises and any articles found therein, and make copies of, or extracts from, any drawing, plan or other document found in the premises and, for the

purpose of making such copies or extracts, may remove any such drawing, plan or other document and retain possession thereof for a period not exceeding seven days.

(3) Any person who wilfully obstructs any other person exercising powers conferred on that person by subsection (1), or subsection (2), shall be guilty of an offence.

24. Any land required for the purposes of the Authority shall be deemed to be needed for a public purpose and may be acquired by the State under the Land Acquisition Act and transferred to the Authority.

Compulsory acquisition of land required by the Authority.

25. (1) The Secretary to the Ministry may, on the recommendation of the Authority, and subject to and in accordance with the provisions contained in the Schedule to this Act, compulsorily acquire any plant designed or adapted for the production or use of atomic energy or research into matters connected therewith, and transfer the same to the Authority.

Compulsory acquisition of plant required by the Authority.

(2) In the case of any such plant affixed to any land as is compulsorily acquired under subsection (1), the Secretary to the Ministry may cause it to be severed from the land, and shall, if such severance is made, cause any damage caused by such severance to be made good.

(3) Such compensation in respect of the acquisition of any plant under this section shall be paid by the Secretary to the Ministry to the person who is the owner and to any other person who has an interest in the plant, as may be agreed upon between the Secretary to the Ministry and such person or persons with the approval of the Minister in charge of the subject of Finance or, in default of such agreement, as may be determined by an arbitrator mutually agreed upon by the Secretary to the Ministry and such person or persons or, failing such last-mentioned agreement, by an arbitrator appointed by the District Judge of Colombo. The arbitrator may, if he thinks fit, be assisted by not more than two assessors, and the fees of the arbitrator and assessors shall be payable by the Secretary to the Ministry or such person or persons in such proportion as the arbitrator determines.

Acquisition of certain rights to patents by the Authority.

26. (1) Notwithstanding anything to the contrary contained in the Code of Intellectual Property Act or any other law—

(a) the Secretary to the Ministry or any person authorized thereto by him may, on the recommendation of the Authority, by notice in writing served upon the holder of or any applicant for a patent which in the opinion of the Authority relates to or can be applied in connexion with the processing or use of any prescribed material or the production, application or use of atomic energy, advise such holder or applicant that it desires to acquire the rights in the patent or the rights of the applicant to obtain a patent, as the case may be, and the service of such a notice shall have the effect of divesting the person upon whom it has been served of any such rights and vesting those rights in the Authority;

(b) if any rights in respect of which a notice has been served under paragraph (a), have been assigned or if any licence has been granted under a patent in respect of which such a notice has been served, the Secretary to the Ministry shall simultaneously with the service of that notice, or as soon as possible thereafter, cause a copy of the notice to be served upon the assignee or licensee and may at the same time cause such assignee or licensee to be informed that it desires to cancel the assignment or licence, and in that event such assignment or licence shall be deemed to have been cancelled.

(2) A copy of any notice served under paragraph (a), and of any communication addressed under paragraph (b) to an assignee of any rights in a patent or to a licensee under a patent, shall forthwith be transmitted by the Secretary to the Ministry to the Registrar within the meaning of the Code of Intellectual Property Act.

(3) Such compensation in respect of the acquisition of any rights to a patent under this section shall be paid by the Secretary to the Ministry to the holder, applicant, assignee, or licensee, hereinafter called a " person interested in the patent ", as may be agreed upon between the Secretary to the Ministry and such person interested in the patent with the approval of the Minister in charge of the subject of Finance or, in default of such agreement, as may be determined by an arbitrator mutually agreed upon by the Secretary to the Ministry and such person interested in the patent or, failing such last-mentioned agreement, by an arbitrator appointed by the District Judge of Colombo. The arbitrator may, if he thinks fit, be assisted by not more than two assessors, and the fees of the arbitrator and assessors shall be payable by the Secretary to the Ministry or such person interested in the patent in such proportion as the arbitrator determines.

27. (1) The Secretary to the Ministry may, on the recommendation of the Authority, cause to be served on any person who is party to a contract relating to the production or use of atomic energy or research into matters connected therewith, not being a contract for the rendering of personal services, a notice in writing stating that on such date as shall be specified in the notice the rights and liabilities of that person under the contract will be transferred to the Authority.

Compulsory acquisition by the Authority of rights under contracts.

(2) Where a notice under subsection (1) is served on any person, then, subject to any withdrawal of the notice under the succeeding provisions of this section, the contract to which the notice relates shall, as regards any rights exercisable, or liabilities incurred on or after the date specified in the notice in accordance with the provisions of subsection (1), have effect as if the Authority were a party to the contract instead of such person and as if for any reference in the contract to such person there were substituted a reference to the Authority.

(3) A notice under subsection (1) shall contain a statement to the effect that objections may be made thereto within such time and in such manner as shall be

specified in the notice, and if any such objection is duly made and not withdrawn, the Secretary to the Ministry shall afford an opportunity to the person making the objections of appearing before and being heard by a person appointed by the Secretary to the Ministry for the purpose. The person so appointed shall make a report on such objections to the Secretary to the Ministry.

(4) After considering the objections duly made to a notice under subsection (1) and the report made on such objections under subsection (3), the Secretary to the Ministry may cause to be served on the person on whom that notice was served a further notice in writing withdrawing the original notice, and if the original notice has already taken effect, it shall cease to operate in relation to the contract to which it relates as regards any rights exercisable, or liabilities incurred, on or after the date on which the notice of withdrawal was served.

(5) Where the rights and liabilities of a party to a contract are transferred to the Authority under this section, the Secretary to the Ministry shall pay to that party such compensation in respect of any loss suffered by that party as may be agreed upon between the Secretary to the Ministry and that party with the approval of the Minister in charge of the subject of Finance or, in default of such agreement, as may be determined by an arbitrator mutually agreed to by the Secretary to the Ministry and that party or, failing such last-mentioned agreement, by an arbitrator appointed by the District Judge of Colombo. The arbitrator may, if he thinks fit, be assisted by not more than two assessors, and the fees of the arbitrator and assessors shall be payable by the Secretary to the Ministry or that party in such proportion as the arbitrator determines.

Funds of the Authority.

28. (1) Such sums as may from time to time be granted for the purposes of the Authority by Parliament shall form part of the funds of the Authority.

(2) The Authority may utilize its funds for defraying all expenditure incurred in the exercise of its powers and performance of its functions under this Act.

(3) Any expense incurred by the Secretary to the Ministry in the exercise of powers or the performance of functions under this Act shall be defrayed or paid out of the funds of the Authority.

29. Any person who, without the consent of the Authority, discloses any information obtained in the exercise of powers under this Act, shall be guilty of an offence.

Disclosure of information obtained under the Act.

30. (1) Any person who is guilty of an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding three months or to a fine not exceeding one thousand rupees or to both such imprisonment and such fine-

Punishment for offences under this Act.

(2) Where any offence under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of that body, or was purporting to act in any such capacity, shall be deemed to be guilty of the offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

31. (1) The Minister shall appoint an Advisory Committee consisting of such number of persons as may be determined by him. The members of such Committee shall be persons who have experience of all or any of the matters specified in subsection (1) of section 15. Such Committee shall advise the Authority on any such question relating to any of the aforesaid matters as may be referred to it by the Authority.

Advisory Committee.

(2) Every member of the Advisory Committee shall hold and vacate his office as such member in accordance with the terms of his appointment, but he may resign his office by letter addressed to the Minister. He shall, on ceasing to be a member of such Committee, be eligible for reappointment.

(3) The Minister shall appoint one of the members of the Advisory Committee to be the Chairman of such Committee.

(4) The Advisory Committee may regulate its procedure.

Accounts and audit thereof.

32. (1) The Authority shall cause its accounts to be kept in such form and in such manner as the Minister may direct.

[§23,38 of 1971.]

(2) The Authority shall cause its books to be balanced as on the 31st day of December in each year and shall, before the thirty-first day of March next, cause to be prepared an income and expenditure account and a balance sheet containing a summary of the assets and liabilities of the Authority made up to the first-mentioned date. The income and expenditure account and the balance sheet shall be signed by the Chairman of the Authority, and by such officer of the Authority as may be authorized by the Authority to do so.

(3) The Authority shall have its accounts audited each year by the Auditor-General. For the purpose of assisting him in the, audit of such accounts, the Auditor-General may employ the services of any qualified auditor who shall act under his (Direction and control.

(4) For the purpose of meeting the expenses incurred by him in auditing the accounts of the Authority the Auditor-General shall be paid from the funds of the Authority such remuneration as the Minister may determine with the concurrence of the Minister in charge of, the subject of Finance. Any remuneration received from the: Authority by the Auditor-General shall, after deduction of any sums paid by him to any qualified auditor employed by him for the purpose of such audit, be credited to the Consolidated Fund.

(5) For the purposes of this section, the expression " qualified auditor " means—

- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to 'practise as an Accountant issued by the Council of such Institute . or

- (b) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute.

(6) The Auditor-General and any person assisting him in the audit of the accounts of the Authority shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Authority, as the Auditor-General may consider necessary for the purposes of the audit, and shall be furnished by the members or officers of the Authority with such information within their knowledge as may be required for such purposes.

(7) The Auditor-General shall examine the accounts of the Authority and furnish a report- -

- (a) stating whether he has or has not obtained all the information and explanations required by him;
- (b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Authority ; and
- (c) drawing attention to any item in the accounts which in his opinion may be of interest to Parliament in any examination of the activities and accounts of the Authority.

(8) The Auditor-General shall transmit his report to the Authority.

33. (1) The Authority shall furnish to the Minister such information as he may call for from time to time in respect of the Activities and financial• position of the Authority.

Information furnished to, and directions given by, the Minister.

(2) The Minister may, from time to time, give the Authority general directions, and, after consultation with the Authority, give the Authority special directions, as to the exercise of the powers and the discharge

of the duties of the Authority, and such directions shall be carried out by the Authority.

Annual report.

34. (1) The Authority shall annually prepare a written report of the Authority's work and finances during the year completed, including any information furnished to, and directions given by, the Minister under section 33, and shall transmit to the Minister—

- (a) a copy of such report;
- (b) a copy of the income and expenditure account and balance sheet in respect of such year certified by the Auditor-General; and
- (c) a copy of the Auditor-General's report furnished under subsection (8) of section 32.

(2) The Minister shall lay copies of the reports and statements referred to in subsection (1) before Parliament.

Provident fund.

35. The Authority may establish and regulate a provident fund for the benefit of all or any of the employees of the Authority and their departments or nominees, and may make contributions to such fund out of the moneys of the Authority.

State land and State buildings.

36. Any State land or any State building may, subject to such conditions as may be determined by the Minister with the concurrence of the Minister for the time being in charge of the subject of State lands, be made available for the use of, or be alienated to, the Authority for any purpose of the Authority or for the residence of any officer or servant of the Authority.

Exemptions from certain duties and taxes.

37. (1) The Authority shall be exempt from the payment of any customs duty on any goods imported by the Authority if the Minister in consultation with the Minister in charge of the subject of Finance approves of such exemption.

(2) In the case of any instrument containing any agreement between the Authority and any other person and providing for making a payment to the

Authority as a contribution to the general support of the Authority's work, both the Authority and such other person shall be exempt from the payment of any stamp duty on such instrument.

(3) Any person making a payment to the Authority as a contribution to the general support of the Authority's work, may claim the amount of the payment as a deduction from income, in the year in which the payment is actually made, for the purposes of computing liability for income tax, and the payment shall be deemed not to be a taxable gift for the purposes of the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979).

38. (1) No suit or prosecution shall lie against any member, officer, servant or agent of the Authority for any act which in good faith is done or purports to be done by him under this Act or on the direction of the Authority.

Protection of members, &c., of the Authority for action taken under this Act or on the direction of the Authority.

(2) Any expense incurred by the Authority in any suit or prosecution brought by or against the Authority before any court shall be paid out of the funds of the Authority, and any costs paid to, or recovered by, the Authority in any such suit or prosecution shall be credited to the funds of the Authority.

(3) Any expense incurred by any such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or purports to be done by him under this Act or on the direction of the Authority shall, if the court holds that such act was done in good faith, be paid out of the funds of the Authority, unless such expense is recovered by him in such suit or prosecution.

39. No writ against person or property shall be issued against a member of the Authority in any action brought against the Authority.

No writ to issue against person or property of a member of the Authority.

40. (1) The Authority may make Regulations. regulations generally for the purpose of giving effect to the principles and provisions of this Act and particularly in respect of any

matter which is stated or required by this Act to be prescribed, or for or in respect of which regulations are required or authorized by this Act to be made.

(2) No regulation made under this Act shall have effect until it is approved by the Minister, confirmed by Parliament, and published in the Gazette,

Compensation for injury.

41. (1) If- injury is caused to an employee of the Authority or to any other person by ionizing radiations from any material on any premises occupied by the Authority or from any waste discharged in whatever form on or from any such premises or from any material in the course of carriage on behalf of the Authority, the Authority shall be liable to pay compensation to such person in accordance with such scale as the Minister may specify by Order published in the Gazette :

Provided that the claim to such compensation shall be made, notwithstanding the provisions of any other law, within a period of thirty years, from the date of the occurrence which gave rise to the claim or where the occurrence was a continuing one or was one of a succession of occurrences, the date of the last event in the course of the occurrence or succession of occurrences to which the claim relates.

(2) If any person who has been employed by any employer in any process in which ionization radiation occurs, for a continuous period of not less than six months, contracts any prescribed disease, such employer shall be liable notwithstanding the provisions of any other written law to pay to such person compensation in the prescribed manner unless the employer proves that the disease had not arisen as a result of such employment:

Provided always that a claim for payment of such compensation shall be made to such employer whilst such person is in the employment of such employer or within thirty years from the dale on which such person ceased to be employed by such employer.

(3) If any person who has been employed by the Authority for a continuous period of not less than six months, contracts any disease specified by the Minister by Order, the Authority shall be liable to pay such person compensation specified by the Minister by Order unless the Authority proves that the disease had not arisen as a result of such employment:

Provided that the claim to such compensation shall be made while such person is in the employment of the Authority or within such time from the date on which such person ceased to be employed by the Authority as the Minister may specify by Order.

(4) The compensation referred to in subsections (1), (2) and (3) shall not be less than the sums payable for any corresponding injury under the Workmen's Compensation Ordinance, and where a claim is not admitted by the Authority, compensation may be recovered, as far as may be, in the same manner as in the Workmen's Compensation Ordinance.

(5) The provisions of this section shall not bar a person from recovering damages in a court of law, but, where damages are awarded the court shall take into consideration any compensation paid under this section.

42. In this Act, unless the context interpretation. otherwise requires—

" atomic energy " means the energy released from atomic nuclei as a result of any process, but does not include energy released in any process of natural transmutation or radioactive decay which is not accelerated or influenced by external means;

" material " means any natural or artificial material, whether in solid or liquid or in the form of gas or vapour, and includes any manufactured article or any article which has been subjected to any artificial treatment or process;

"Secretary to the Ministry" means the Secretary to the Ministry charged with the relevant subject or function;

"plant" includes any machinery, equipment or appliance, whether affixed to land or not;

"prescribed substance" means uranium, thorium, beryllium, lithium or any of their compounds, or any other

substance which the Minister may by notification in the Gazette prescribe, being a substance which, in his opinion, is or may be used for the production or use of atomic energy or research into matters connected therewith; and

"radioactive material" means any material which consists of or contains any radioactive chemical element whether natural or artificial.

SCHEDULE

**[Section 25
(1).]**

PROCEDURE FOR COMPULSORY ACQUISITION OF PLANT

1. Where the Secretary to the Ministry proposes to acquire any plant under section 25 of this Act, he shall cause to be served upon the person appearing to him to be the owner thereof a notice in writing (hereinafter referred to as a "notice of acquisition") specifying the plant to be acquired and requiring that person to make to him within a time specified in the notice a written declaration containing such particulars as may be so specified in regard to the ownership of that plant and to any agreement or charge by virtue of which any other person has an interest in that plant.

2. Upon the service of a notice of acquisition under paragraph 1 of this Schedule no plant to which the notice relates shall be removed from the premises in which the article is situated at the time of the service of the notice without the consent of such person as is specified in the notice; and if any person knowingly removes, or causes or permits to be removed, any article in contravention of this paragraph, he shall be guilty of an offence.

3. If it appears to the Secretary to the Ministry in consequence of any written declaration made to him in pursuance of paragraph 1 of this Schedule or otherwise that any person other than the person on whom the notice of acquisition was served is the owner of, or has an interest in, any article to which the notice relates, the Secretary to the Ministry shall cause to be served a copy of the notice of acquisition on that other person.

4. A notice of acquisition shall contain a statement to the effect that an objection may be made thereto within such time (not being less than twenty-eight days) and in such manner as may be specified in the notice, and if any such objection is duly made and not withdrawn, the Secretary to the Ministry shall afford an opportunity to the person making the objection of appearing before and being heard by a person appointed by the Secretary to the Ministry for the purpose, and if the person making the objection avails himself of the opportunity, the Secretary to the Ministry may afford to any other person to whom it appears to the Secretary to the Ministry expedient to afford it, an opportunity of being heard on the same occasion.

5. If any such objection as aforesaid is duly made and not withdrawn, the Secretary to the Ministry shall, after considering such objection and the report of the person appointed by the Secretary to the Ministry under paragraph 4 of this Schedule, cause to be served on the person upon whom the notice of acquisition of or copy thereof was served a further notice in writing either withdrawing the notice of acquisition or confirming it as respects all the articles to which it relates or such of those articles as may be specified.

6. Any plant with respect to which a notice of acquisition is served under this Schedule shall

(a) if no objection is duly made to the notice, vest, absolutely and free from all encumbrances, in the Secretary to the Ministry at the expiration of the time for making such an objection, and

(b) if such an objection is duly made and the notice is confirmed as respects that article by a notice served under paragraph 5 of this Schedule, vest, absolutely and free from all encumbrances, in the Secretary to the Ministry on the service of the last-mentioned notice-

CHAPTER 324

AUDITOR-GENERAL'S FEES

Act No. 26 of 1958. AN ACT TO ENABLE FEES TO BE CHARGED AND RECOVERED IN RESPECT OF CERTAIN AUDIT SERVICES RENDERED BY THE AUDITOR-GENERAL.

[19th July, 1958.]

Short title.

1. This Act may be cited as the Auditor-General's Fees Act.

Auditor-General to furnish an annual statement to the Minister in charge of subject of Finance in respect of services rendered by him in regard to the audit of certain accounts.

2. The Auditor-General shall, as soon as possible after the end of each year, furnish to the Minister in charge of the subject of Finance, through the Controller of Finance, a written statement specifying—

- (a) every institution, corporation or other body of persons, and every Fund, whose accounts have been audited in that year by the Auditor-General or by any other auditor in consultation with the Auditor-General;
- (b) the expenses incurred by the Auditor-General in auditing in such year the accounts of each such institution, corporation, other body or Fund, or in advising any other auditor in regard to the audit of such accounts in such year by that auditor; and
- (c) the fee that he recommends should be charged for such audit or consultation from each such institution, corporation, other body or Fund.

Minister in charge of subject of Finance to determine whether a fee should be charged for any services rendered by the Auditor-General and, if so, the amount of the fee.

3. Upon the receipt of the statement of the Auditor-General under section 2, the Minister in charge of the subject of Finance shall, after considering such statement, determine, in the case of each institution, corporation or other body of persons and each Fund specified in such statement, whether a fee should be charged for the services rendered by the Auditor-General and, if a fee is to be charged, the amount of the fee.

4. Where, before the commencement of this Act, the Auditor-General has audited, or has been consulted by any other auditor in regard to the audit of, the accounts of any such institution, corporation, other body of persons or Fund as has been established by or under any written law, the Minister in charge of the subject of Finance may order that institution, corporation or other body of persons, or the administrators of that Fund, to pay to the Auditor-General such fees as may be specified in the order for such audit or consultation.

Fees for services rendered in the past by the Auditor-General in regard to the audit of the accounts of statutory bodies.

5. (1) The Secretary to the Ministry charged with the subject of Finance shall in writing communicate the determination of the Minister in charge of the subject of Finance under section 3 or the order of such Minister under section 4 to the Auditor-General and to every institution, corporation or other body of persons, and to the administrators of every Fund, affected by such determination or order.

Payment and recovery of fees determined by the Minister in charge of subject of Finance.

(2) Where, under a determination made by the Minister in charge of the subject of Finance under section 3, or under an order made by such Minister under section 4, any sum is required to be paid as a fee to the Auditor-General by any institution, corporation or other body of persons or by the administrators of any Fund, such institution, corporation or other body, or the administrators of such Fund, shall, upon demand made by the Auditor-General, pay such sum to the Auditor-General within the time allowed therefor by him, and notwithstanding anything to the contrary in any other written law, such sum may be paid out of the funds of such institution, corporation or other body, or out of the moneys of such Fund- If such sum is not

AUDITOR-GENERAL'S FEES

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paid within such time, it may be recovered as a debt due to the State,

7. This Act shall not apply to the audit of the accounts specified in section 71 (1) of the Ceylon (Constitution) Order in Council, 1946,* or the accounts of any Municipal Council, Urban Council, Town Council or Village Council.

This Act not to apply to the audit of certain accounts.

Fees to be credited to the consolidated Fund

6. All sums paid or recovered as fees to the Auditor-General under this Act shall be credited by him to the Consolidated Fund.

* Section 71 (1) of the Ceylon (Constitution) Order-in-Council, 1946, has been replaced by section 90 (1) of the Constitution of the Republic of Sri Lanka, adopted and enacted on 22nd May, 1972, which in turn has been replaced by Article 154 (1) of the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978.

CHAPTER 627

AIR FORCE

AN ACT TO PROVIDE FOR THE RAISING AND MAINTENANCE OF AN AIR FORCE AND FOR MATTERS CONNECTED THEREWITH.

Acts
Nos. 41 of 1949,
21 of 1954,
7 of 1962,
33 of 1962,
21 of 1979.

[10th October, 1950.]

Short title. **1.** This Act may be cited as the Air Force Act.

reserve, force, or part so called out shall, during the period of such service or training, be deemed for all purposes to be officers and airmen of the Regular Air Force.

PART I

ORGANIZATION OF THE AIR FORCE

2. (1) There shall be raised and maintained, in accordance with the provisions of this Act and of the regulations made thereunder, a force, to be called the Sri Lanka Air Force (and hereinafter referred to as the "Air Force"), not exceeding such strength as may, from time to time, be determined by Parliament.

- (2) The Air Force shall consist of—
 - (a) a Regular Air Force,
 - (b) a Regular Air Force Reserve, and
 - (c) such Volunteer Air Force and Volunteer Air Force Reserve as may be constituted under sections 5 and 6.

3. (1) The Regular Air Force shall consist of officers and airmen who are appointed or enlisted for the purpose of rendering continuous service under this Act during the period of their engagement.

(2) The Regular Air Force shall be organized into such corps as may, from time to time, be determined by the President.

(3) Where the whole or any part of the Regular Air Force Reserve, Volunteer Air Force, or Volunteer Air Force Reserve, is called out on active service or for air-force training, the officers and airmen of such

4. The Regular Air Force Reserve shall consist of officers who by order of the President are transferred to such reserve from the Regular Air Force and airmen who are transferred to such reserve from the Regular Air Force in accordance with the terms of their enlistment.

Regular Air Force Reserve.

5. (1) There may be raised and maintained, in accordance with the provisions of this Act and of the regulations made thereunder, a force of volunteers for the purpose of rendering service under this Act.

Volunteer Air Force.

(2) The force of volunteers raised and maintained under this Act shall be called the Volunteer Air Force.

(3) The Volunteer Air Force shall be organized into such corps as may, from time to time, be determined by the President.

6. There may be organized and maintained a Volunteer Air Force Reserve consisting of such officers and airmen of the Volunteer Air Force or of any other unit of the Air Force as are transferred to such reserve by order of the President.

Volunteer Air Force Reserve.

7. The whole or any part of the Regular Air Force Reserve, Volunteer Air Force, or Volunteer Air Force Reserve may by order of the President be called out for air-force training with the whole or any part of the Regular Air Force during any period specified in such order.

Training.

Sri Lanka Air Force.

[§ 3, 21 of 1979.]

Regular Air Force.

Commander of the Air Force. **8.** (1) The President shall appoint a fit and proper person to command the Air Force.

(2) The person appointed under subsection (1) of this section shall be designated Commander of the Air Force.

PART II

OFFICERS

Appointment of officers. **9.** (1) The officers shall be appointed by commissions under the hand of the President.

(2) Every officer shall upon appointment take and subscribe the prescribed oath, or make and subscribe the prescribed affirmation, before a prescribed officer.

(3) No commission issued by the President under subsection (1) of this section shall become invalid by reason of his death or vacation of office.

Duration of appointments. **10.** Every officer shall hold his appointment during the President's pleasure.

Resignation. **11.** (1) An officer of the Regular Air Force or Regular Air Force Reserve shall not have the right to resign his commission, but may be allowed by the President to do so.

(2) An officer of the Regular Air Force or Regular Air Force Reserve who tenders the resignation of his commission to the President shall not be relieved of the duties of his appointment until the acceptance of the resignation is notified in the Gazette.

(3) Where an officer of the Volunteer Air Force or Volunteer Air Force Reserve desires to resign his commission on any date, he shall, not less than three months before that date, give the President written notice that he will be resigning his commission on that date.

(4) Where an officer of the Volunteer Air Force or Volunteer Air Force Reserve has, in accordance with subsection (3) of

this section, given notice of resignation of his commission, he shall, upon his returning to the prescribed officer in good order (fair wear and tear only excepted) all such arms, clothing and appointments in his possession as are the property of the Air Force, be entitled to resign his commission—

(a) if he is not on active service, on the date of resignation specified in such notice, or

(b) if he is on active service, immediately after the termination of such service.

12. The promotion and transfer of officers and the grant of leave of absence to them shall be in accordance with such regulations as may be made in that behalf. Promotion, transfer, and leave.

PART III

AIRMEN

13. (1) The enlistment of persons as airmen shall be in accordance with the regulations made in that behalf and shall be conducted by recruiting officers appointed by the President. Enlistment.

(2) Every person selected for enlistment as an airman shall appear before a prescribed officer, sign an attestation paper containing the terms of his enlistment, and take and subscribe the prescribed oath or make and subscribe the prescribed affirmation.

(3) The attestation paper referred to in subsection (2) of this section shall be in the prescribed form.

14. (1) Subject to the provisions of section 21, the enlistment of a person as an airman of the Regular Air Force shall— Original enlistment, and re-engagement.

(a) be for the prescribed period which shall be called the period of original enlistment, and

(b) be entirely for service in such force or partly for such service and partly for service in the Regular Air Force Reserve.

(2) An airman may, before the expiry of the period of his original enlistment, be re-engaged for a further period of air-force service not exceeding the prescribed maximum period of re-engagement.

be entitled to be discharged from such force or reserve on such date, upon his returning to the prescribed officer in good order (fair wear and tear only excepted) all such arms, clothing and appointments in his possession as are the property of the Air Force.

Reckoning and forfeiture of **15.** (1) Subject to the provisions of subsection (2) of this section, the service of an airman of the Regular Air Force for the purpose of discharge or of transfer to the regular Air Force Reserve shall be reckoned from the date of his signing the attestation paper.

17. A non-commissioned officer sentenced by a court martial to field punishment, imprisonment, or detention shall be deemed to be reduced to the rank of airman.

Reduction to rank of airman.

(2) Where an airman has been guilty of the air-force offence of desertion or of fraudulent enlistment, then either upon his conviction by a court martial of such offence, or (if, having confessed such offence, he is liable to be tried by a court martial) upon his trial by a court martial being dispensed with by order under section 149, the whole of his prior service shall be forfeited, and he shall be liable to serve as an airman for the period of his original enlistment, reckoned from the date of such conviction or such order dispensing with trial, in like manner as if he had been enlisted on that date:

PART IV

SERVICE

18. Every member of the Air Force shall, whenever ordered so to do by his commanding officer, perform such of the prescribed duties as may, from time to time, be imposed on him by that officer, and shall in addition when he is on active service perform any such duty as the Commander of the Air Force deems necessary.

Duties of members of Air Force.

Provided that all or any part of the service of an airman forfeited under this subsection may, in accordance with such regulations as may be made in that behalf, be restored to him if he performs good and faithful service or is otherwise deemed to merit the restoration of such service.

19. (1) The President may—

Active service.

(a) for the defence of Sri Lanka in time of war whether actual or apprehended, or

(b) for the prevention or suppression of any rebellion, insurrection or other civil disturbance in Sri Lanka,

by Proclamation or, where the circumstances render it impossible to issue a Proclamation, by order, call out on active service the whole or any part of the Air Force.

(2) All officers and airmen of any such part of the Air Force as is called out on active service under subsection (1) of this section shall be deemed to be on such service until the President terminates such service by Proclamation.

20. If Parliament is sitting at the date of issue of a Proclamation or an order under subsection (1) of section 19, the President shall forthwith communicate to Parliament the reason for issuing the Proclamation or order. If Parliament is not then sitting, the

Report to Parliament.

Promotion, transfer, discharge, &c.

16. (1) The promotion, transfer, discharge and dismissal of airmen, and the grant of leave of absence to them, shall be in accordance with the regulations made in that behalf.

(2) Where an airman of the Volunteer Air Force or Volunteer Air Force Reserve desires to obtain his discharge from such force or reserve on any date before the expiry of the period for which he has volunteered to serve in such force or reserve, he shall, not less than three months before such date, make a written request to his commanding officer for such discharge; and, if he makes such request, he shall, subject to the provisions of section 21,

President shall summon Parliament to meet as soon as possible but not later than thirty days after the aforesaid date, and shall, at the first sitting of Parliament after it is summoned, communicate the aforesaid reason.

Prolongation of service in the Air Force.

21. Where the time at which an airman is entitled to be discharged from the Air Force occurs during the period when the whole or any part of the Air Force is on active service, the President may by order prolong the service of that airman in the Air Force for such period.

Relations between air and naval and military forces of Sri Lanka acting together.

22. (1) Where an officer or a petty or non-commissioned officer of any naval or military force of Sri Lanka is attached to, or is a member of any naval or military force of Sri Lanka which is acting with, any part of the Air Force under such conditions as may be prescribed, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, he shall, in relation to that part of the Air Force, be treated as, and have all the powers (other than the powers of punishment) vested in, an officer or a non-commissioned officer of the Air Force, as the case may be.

(2) Where an officer or airman of the Air Force is attached to, or is a member of any part of the Air Force acting with, any naval or military force of Sri Lanka under such conditions as may be prescribed, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, the officers and the petty or non-commissioned officers of that naval or military force shall, in relation to him, be treated as, and have all the powers (other than the powers of punishment) vested in, officers or non-commissioned officers of the Air Force, as the case may be.

Co-operation with foreign air force.

23. (1) In time of war, if the whole or any part of the Air Force is required to act in co-operation with any foreign air force in defence of Sri Lanka, the President may place the Air Force or such part thereof under the command of the officer commanding such foreign air force if that officer is senior in rank to all the officers of the Air Force or of such part thereof.

(2) Where any officer, warrant officer, or non-commissioned officer is acting in co-operation with any foreign air force in defence of Sri Lanka, the President may, in agreement with the commander of such force, define the powers of command and the order of precedence of such officer, warrant officer, or non-commissioned officer in relation to a member of such force who is of the same or similar rank.

23A. (1) The President may order all or any of the members of the Air Force to perform such duties as he may consider necessary in the national interest.

Performance of certain other duties by members of the Air Force. [§ 2, 7 of 1962.]

(2) The President may order any member of the Air Force to perform escort and guard duties in respect of persons suspected, accused, or convicted of any offence against the State under Chapter VI of the Penal Code.

(3) Every member of the Air Force shall perform such duties as may be imposed on him by Order of the President under subsection (1).

(4) Wherever an Order is made under subsection (1) calling upon any officer of the Air Force to perform civilian administrative duties and wherever an Order is made under subsection (2) the President shall communicate to Parliament such Order in the same manner as under the Public Security Ordinance in the case of a declaration of a state of emergency.

PART V

PAY, ALLOWANCES, PENSIONS, AND GRATUITIES

24. Every member of the Regular Air Force and every officer or airman not belonging to the Regular Air Force who is on active service shall be entitled to such pay and allowances, and to be quartered in such manner, as may be prescribed.

Emoluments of members of the Regular Air Force and of other members of the Air Force who are on active service.

Allowances of officers and airmen who are not members of the Regular Air Force and are not on active service.

25. Such of the officers and airmen as are not members of the Regular Air Force and are not on active service shall be entitled to such equipment allowance or other allowance as may be prescribed.

Making and remission of deductions.

26. (1) No penal deduction, other than a penal deduction authorized by this Act, shall be made from the pay or allowance of any officer or airman.

(2) Any sum authorized by this Act to be deducted from the pay of any officer or airman may be deducted from his pay or from any sums due to him.

(3) Any deduction authorized by this Act to be made from the pay of any officer or airman may be remitted in such circumstances and in such manner as may be prescribed.

Penal deductions from the pay due to an officer.

27. The following penal deductions may be made from the pay or allowance due to an officer:—

[§ 2, 33 of 1962.]

(a) all pay in respect of any period during which he is absent without leave, unless an explanation has been given by him through his commanding officer and has been accepted as satisfactory by the Commander of the Air Force;

[§ 2, 33 of 1962.]

(aa) in respect of each month of any period during which he is suspended from the exercise of his office, a part of his pay and allowances for that month as may be prescribed;

(b) the sum awarded by the court martial by which he is convicted of any offence as the compensation payable by him for any expense, loss, damage or destruction occasioned by the commission of the offence;

(c) the sum required to make good the pay of any other officer or of any airman which he has unlawfully retained or unlawfully refused to pay;

(d) the sum required to make good such loss, damage, or destruction of public or air-force property as, after due investigation, appears to the Commander of the Air Force to have been occasioned by any wrongful act or negligence of the officer;

(e) any sum which he has been ordered by a civil court to pay for the maintenance of his wife or of his legitimate or illegitimate child or children and which he has himself not paid.

28. (1) The following penal deductions may be made from the pay or allowance due to an airman;—

Penal deductions from the pay due to an airman.

(a) all pay for every day of absence either on desertion or without leave, or as a prisoner of war if taken prisoner through his neglect or misconduct; for every day of imprisonment to which he is sentenced by a court martial or civil court, or, if he is on board a ship of the Republic, by the commanding officer of that ship ; for every day of detention to which he is sentenced, or for every day in respect of which field punishment is imposed on him, by a court martial or by his commanding officer; and for every day whilst he is in air-force custody on a charge for an offence of which he is afterwards convicted by a court martial or a civil court, or on a charge of absence without leave for which he is afterwards sentenced to detention or subjected to field punishment by his commanding officer;

[§ 3, 33 of 1962.]

(aa) in respect of each month of any period during which he is suspended from his duties, a part of his pay and allowances for that month as may be prescribed ;

[§ 3, 33 of 1962.]

(b) all pay for every day on which he is in hospital on account of illness certified by the medical officer attending on him at the hospital to have been caused by an offence committed by him;

- (c) such sum payable by him by way of compensation for any expense, loss, damage, or destruction occasioned by the commission of any offence as may be determined by the court martial by which he is convicted of that offence or by the authority dealing summarily, under section 43, with the charge against him in respect of that offence, or, if he is on board a ship of the Republic, by the commanding officer of that ship, or, where he has confessed the offence and his trial is dispensed with by order under section 149, by that order or by any other order of a competent air-force authority under that section;
- (d) such sum payable by him by way of compensation for any expense caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, service necessaries, or air-force decorations, or to any buildings or other property, as may be determined by his commanding officer, or by the authority dealing summarily, under section 43, with a charge against him, or, where he elects to be tried by a court martial, by that court martial, or, if he is on board a ship of the Republic, by the commanding officer of that ship ;
- (e) the share which he, as a member of a unit of the Air Force, is required to contribute towards compensation for any barrack damage which, after due investigation held in the prescribed manner, appears to have been caused by the wilful act or negligence of any unidentifiable person or persons belonging to such unit, during the period while such unit was in occupation of the barracks;
- (f) the sum required to pay any fine imposed by a court martial or his commanding officer; or any fine, penalty, damages, compensation, or

costs which a civil court before which he has been charged with an offence has ordered him to pay; and

- (g) any sum which he has been ordered by a civil court to pay for the maintenance of his wife or of his legitimate or illegitimate child or children and which he has himself not paid ;

Provided that—

- (i) the total amount of such deductions authorized by this subsection as are made from the pay due to an airman shall not exceed such sum as will leave to him, after paying for his messing and washing, less than ten cents a day, and
- (ii) where an airman who is sentenced in respect of an offence on active service to forfeit all pay is liable to any other penal deductions from pay, the sentence shall apply only to so much of his pay as remains after those deductions have been made.

(2) For the purposes of paragraph (e) of subsection (1) of this section—

" barrack damage " means damage to or loss or destruction of any premises in which airmen are quartered or billeted, or any appurtenances, fixtures, furniture or effects therein or appertaining thereto, and

" unit " includes any part of a unit.

29. Any officer or airman, or the widow or any child or other dependant of any officer or airman, may be paid a pension or gratuity in such circumstances and at such rates as may be prescribed. Pensions and gratuities.

30. (1) Every assignment of and every charge on, and every agreement to assign or charge, any pay or allowance payable to any officer or airman, or any pension or gratuity payable to any officer or airman or to the widow or any child or other dependant of any officer or airman, shall be void unless it is approved by the President or any person thereto authorized by the President- Assignment, seizure, or sequestration of pay, allowance, pension, or gratuity.

(2) No pay or allowance payable to any officer or airman, and no pension or gratuity payable to any officer or airman or to the widow or any child or other dependant of any officer or airman, nor any part thereof, shall be seized or sequestered under any writ or order issued or made by any civil court,

(2) Each officer to whom an appeal is made under subsection (1) of this section shall inquire into the appeal, and, if satisfied that the appeal should be allowed, shall grant redress to the appellant. An order made by the Commander of the Air Force on any appeal made to him under that subsection shall be final.

Maintenance of wife and children.

31. Where a civil court enters a decree or makes an order against a person, who is or subsequently becomes an officer or airman, for the payment of any sum as cost of maintenance of his wife or of his legitimate or illegitimate child or children, the Commander of the Air Force may, if a duly certified copy of such decree or order is sent to him, cause to be deducted from the pay of the officer or airman and to be appropriated towards the payment of that sum such portion of the pay of the officer or airman as the Commander of the Air Force may determine, so however that there shall be left to the officer or airman not less than one-third of his pay.

PART VII

PERSONS SUBJECT TO THIS ACT

34. For the purposes of this Act, "person subject to this Act" means a person who belongs to any of the following classes of persons :—

Meaning of "person subject to this Act".

- (a) All officers and airmen of the Regular Air Force.
- (b) All such officers and airmen of the Regular Air Force Reserve, Volunteer Air Force, or Volunteer Air Force Reserve, as are deemed to be officers and airmen of the Regular Air Force under subsection (3) of section 3.

PART VI

REDRESS OF GRIEVANCES

Grievances of officers.

32. Where an officer is aggrieved by any action of, and is unsuccessful in obtaining redress from, his commanding officer, he may make a written appeal for redress to the Commander of the Air Force, and where he is aggrieved by any action of the Commander of the Air Force, either in respect of his appeal or in respect of any other matter, he may make a written appeal to the President. An order made by the President on any such appeal shall be final.

35. A person subject to this Act who commits any air-force offence or civil offence may be taken into air-force custody.

Persons liable to air-force custody.

36. (1) A senior officer may order into air-force custody a junior officer who, being a person subject to this Act, commits any air-force offence or civil offence, and a junior officer may order into air-force custody a senior officer who, being a person subject to this Act, is engaged in a quarrel, affray or disorder.

Persons who may order air-force custody.

Grievances of airmen.

33. (1) Where an airman is aggrieved by any action of an officer other than the commanding officer of the corps to which he is attached or by any action of any other airman, he may make a written appeal for redress to such commanding officer, and where he is aggrieved by any action of such commanding officer, either in respect of his appeal or in respect of any other matter, he may make a written appeal to the Commander of the Air Force.

(2) Any officer or non-commissioned officer may order into air-force custody any airman who, being a person subject to this Act, commits any air-force offence or civil offence.

(3) An order under subsection (1) or subsection (2) of this section shall be obeyed notwithstanding that the person giving the order and the person in respect of whom the order is given do not belong to the same corps.

Custodians. 37. Any officer or airman ordered into air-force custody shall be committed to the custody of a provost marshal or an assistant provost marshal or of the commander of a guard. The person to whose custody any officer or airman is committed under this section shall not refuse to receive or keep him.

Statement of offence. 38. The person ordering any officer or airman into air-force custody shall, within twenty-four hours of the committal of that officer or airman to such custody, deliver to the person to whose custody that officer or airman is committed a written and signed statement of the offence with which that officer or airman is charged.

Air-force custody of officer or airman not on active service. 39. Where any officer or airman not on active service, is kept in air-force custody for a longer period than seven days without trial, his commanding officer shall submit weekly to the officer to whom application would be made to convene a court martial if the person in air-force custody were to be tried by a court martial, a written report on the necessity for such custody, until he is brought to trial or is released from such custody.

Commanding officer's powers in regard to an accused. 40. (1) Where a person subject to this Act is taken into air-force custody, the commanding officer of that person shall without unnecessary delay investigate the charge on which that person is in such custody, and—

- (a) if he in his discretion decides that it should not be proceeded with, shall dismiss the charge, and
- (b) if he in his discretion decides that the charge should be proceeded with, shall—
 - (i) take steps for the trial of that person by a court martial, or
 - (ii) where that person is an officer of a rank below that of Wing Commander or is a warrant officer, refer the case to be dealt with summarily by the Commander of the Air Force

or by such officer not below the rank of Group Captain as may thereto be authorised by the Commander of the Air Force, or

- (iii) where that person is an airman other than a warrant officer, deal with the case summarily.

(2) Subject to the provisions of subsection (3) of this section, where an airman, other than a warrant officer or non-commissioned officer, is charged with the offence of drunkenness, his commanding officer shall deal with the case summarily unless the offence was committed by him while on active service or on duty, or after he was warned for duty, or unless by reason of the drunkenness he was found unfit for duty, or unless he has been guilty of the offence of drunkenness on four or more occasions in the preceding twelve months.

(3) Where a commanding officer has power to deal with an accused airman summarily under this section, and, after hearing the evidence, considers that he may so deal with the accused, he shall, if the sentence on the conviction of the accused will involve forfeiture of pay or will not consist only of a minor punishment which a commanding officer is authorized to inflict by regulations made in that behalf, ask the accused whether he desires to be dealt with summarily or to be tried by a district court martial, and he shall, if the accused elects to be tried by a district court martial, take steps for the trial of the accused by a district court martial, or if the accused does not so elect, proceed to deal with the accused summarily.

41. A commanding officer may, in accordance with such regulations as may be made in that behalf, delegate to an officer under his command the power of dealing summarily with an accused airman under section 40.

Delegation of commanding officer's power to deal summarily with an accused airman.

PART VIII

SUMMARY TRIAL

(iii) such deduction from his pay as is authorized by this Act.

Summary trial of accused who is an airman other than a warrant officer.

Summary trial of accused who is an officer of a rank below that of Wing Commander or is a warrant officer.

42. Where a person subject to this Act who is an officer of a rank below that of Wing Commander or is a warrant officer is charged with any offence and the case is referred under section 40 to be dealt with summarily by the authority mentioned in paragraph (b) (ii) of subsection (1) of that section, such authority may—

- (a) whether before or after hearing the evidence dismiss the charge, if he decides in his discretion that it should not be proceeded with ; or
- (b) after hearing the evidence—
 - (i) acquit the accused, if he finds the accused not guilty ; or
 - (ii) convict the accused, if he finds the accused guilty.

In the event of the accused being convicted, such authority may—

- (a) where the accused is an officer of a rank below that of Wing Commander, inflict on him all or any of the following punishments:—
 - (i) forfeiture of seniority of rank either in the Air Force or in the corps to which the accused belongs or in both, or, if the accused's promotion in the Air Force depends on length of service, forfeiture of all or any part of his service for the purposes of such promotion ;
 - (ii) a severe reprimand or a reprimand; and
- (b) where the accused is a warrant officer, inflict on him all or any of the following punishments :—
 - (i) forfeiture of seniority of rank;
 - (ii) a severe reprimand or a reprimand;

43. Where a commanding officer deals summarily with a case in which an airman (not being a warrant officer) under his command is charged with the commission of any offence, he shall, after hearing the evidence, acquit the accused if he finds the accused not guilty, or convict the accused if he finds the accused guilty, and after conviction of the accused may—

- (a) order him to be placed under detention for any period not exceeding twenty-eight days; or
- (b) if the offence is drunkenness, order him to pay a fine not exceeding twenty rupees, either in addition to or without any other punishment; or
- (c) in addition to or without any other punishment, order him to suffer any such deduction from his pay as is authorized by this Act to be made by the commanding officer; or
- (d) where he is not a non-commissioned officer and the offence has been committed by him while on active service, subject him to field punishment for a period not exceeding twenty-eight days in accordance with such regulations relating to field punishment as may be made, and, in addition to or without any other punishment, order him to forfeit all pay for a period commencing on the day of the order and not exceeding twenty-eight days; or
- (e) in addition to or without any other punishment, subject him to such minor punishment as the commanding officer is authorized to inflict by regulations made in that behalf, so however that a minor punishment shall not be inflicted for any offence for which detention exceeding seven days is ordered.

Manner of taking evidence at summary trial.

44. Where a commanding officer has power to deal with a case summarily, the accused may demand that the evidence against him shall be taken on oath or affirmation, and if the accused so demands, the same oath or affirmation as that required to be taken by witnesses before a court martial shall be administered by the commanding officer to each witness in such case.

not below that of Flight Lieutenant as the president of such court martial.

47. (1) A general court martial may try any person subject to this Act who is charged with any air-force offence or civil offence: Jurisdiction of general court martial.

Provided, however, that a general court martial shall not try a person subject to this Act for the offence of treason, murder, or rape committed in Sri Lanka, or in any place in the Commonwealth outside Sri Lanka, unless such person was on active service at the time he committed such offence.

PART IX

COURTS MARTIAL

Three kinds of courts martial.

45. A court martial may be—

- (a) a general court martial, or
- (b) a field general court martial, or
- (c) a district court martial,

(2) A general court martial may inflict any punishment authorized by this Act, and may—

- (a) in the case of a warrant officer inflict, either in addition to or without any other punishment, any punishment which under the proviso to subsection (2) of section 51 a district court martial may inflict, and
- (b) in the case of a non-commissioned officer, order, either in addition to or without any other punishment, forfeiture of seniority of rank or reduction to rank of airman :

General court martial.

46. (1) A general court martial may be convened by the President or such officer of a rank not below that of senior officer as may be authorized by the President.

(2) A general court martial shall—

- (a) where it is convened to try a person subject to this Act for the offence of treason, murder or rape, consist of not less than five officers, and
- (b) where it is convened to try a person subject to this Act for any other offence, consist of three officers.

Provided, however, that a general court martial shall not pass sentence of death on any person without the concurrence of at least two-thirds of the members thereof.

(3) An officer of a rank below that of Flight Lieutenant shall not be a member of a general court martial for the trial of a field officer.

(4) The president of a general court martial shall be appointed by the authority convening such court martial, and shall not be that authority or an officer of a rank below that of field officer;

48. (1) Where only a part of the Air Force is on active service or is in any country outside Sri Lanka, and it is impracticable, in the opinion of the commanding officer thereof, to convene a general court martial, such commanding officer may convene a field general court martial. Field general court martial.

(2) A field general court martial shall consist of not less than three officers:

Provided, however, that where such authority in his order convening such court martial certifies that a field officer is not available owing to the exigencies of the service, he may appoint an officer of a rank

Provided, however, that, where the officer convening a field general court martial certifies that three officers are not available owing to the exigencies of the service, such court martial may consist of two officers.

(3) The officer convening a field general court martial may be the president of such court martial, but he shall, whenever he deems it practicable, appoint another officer as president, who may be of any rank, but shall, if practicable in the opinion of the first-mentioned officer, be of a rank not below that of Flight Lieutenant.

(2) The president of a district court martial shall be appointed by the officer convening such court martial and shall not be that officer or an officer of a rank below that of senior officer:

Provided, however, that—

Jurisdiction of field general court martial.

49. (1) A field general court martial may try—

- (a) any person subject to this Act who, while on active service and under the command of the officer empowered by section 48 to convene such court martial, is charged with any air-force offence or civil offence, and
- (b) any person subject to this Act who, while in any foreign country and under the command of such officer, is charged with any offence against the property or person of any inhabitant or resident of that country.

(2) A field general court martial may inflict any punishment which a general court martial is empowered to inflict:

Provided, however, that—

- (a) where a field general court martial consists of less than three officers, such court martial shall not have the power to inflict any punishment more severe than imprisonment or field punishment allowed by this Act, and
- (b) a field general court martial shall not pass sentence of death on any person without the concurrence of all the members thereof.

District court martial.

50. (1) A district court martial may be convened by any person empowered to convene a general court martial or by such officer of a rank not below that of Flight Lieutenant as may be authorized by such person, and shall consist of not less than three officers.

(a) where the officer convening a district court martial is of a rank below that of senior officer or where in his order convening such court martial he certifies that a senior officer is not available having due regard to the exigencies of the service, an officer of a rank not below that of Flight Lieutenant may be the president of such court martial, and

(b) where, in his order convening such court martial, the first-mentioned officer certifies that a Flight Lieutenant is not available owing to the exigencies of the service and where the accused who is to be tried by such court martial is not a warrant officer, an officer of a rank below that of Flight Lieutenant may be the president of such court martial.

51. (1) Subject to the same restrictions as are imposed on a general court martial by the proviso to subsection (1) of section 47, a district court martial may try any person subject to this Act who is charged with any air-force offence or civil offence other than the offence of murder and who is not an officer.

Jurisdiction of district court martial.

(2) A district court martial may inflict any punishment, other than the punishment of death, which a general court martial is empowered by this Act to inflict;

Provided, however, that a district court martial shall not sentence a warrant officer to any punishment other than the following:—

- (a) a severe reprimand or a reprimand ;
- (b) forfeiture of seniority of rank;
- (c) such deduction from his pay as is authorized by this Act; and

(d) either in addition to or without any of the aforementioned punishments, dismissal from the Air Force, or, if he was originally enlisted as an airman but not otherwise, reduction to the rank of airman.

Courts martial in general.

52. (1) The members of a court martial may be officers of the same corps or of different corps or may be unattached to any corps.

(2) On a court martial, other than a field general court martial, convened for the trial of an accused, the following shall not sit or be qualified to sit;—

- (a) the prosecutor;
- (b) any witness for the prosecution;
- (c) the commanding officer of the accused;
- (d) the officer who investigated the charge on which the accused is arraigned.

(3) Where the required number of officers of the Air Force who are competent under this Act to be members of a court martial is not available, all or any of the members of a court martial which is to be convened under this Act may, notwithstanding anything in any other provision of this Act, be officers of the army of Sri Lanka who in rank correspond to the aforesaid officers of the Air Force.

Appointment of Judge-Advocate.

53. (1) The authority convening a general court martial shall, and the authority convening a district court martial may, appoint a person, who has sufficient knowledge of the practice and procedure of courts martial and of the general principles of law and of the rules of evidence, to act as Judge-Advocate at the court martial.

(2) A person who, under subsection (2) of section 52, is disqualified from sitting on a court martial shall not be appointed as Judge-Advocate at that court martial.

Powers and duties of Judge-Advocate.

54. The powers and duties of the officer appointed to be the Judge-Advocate at a court martial shall be as follows:—

- (a) It shall be his duty, whether before or during the proceedings, to give

advice on questions of law or procedure relating to the charge or trial to the prosecutor and to the accused, who are hereby declared to be entitled to obtain such advice at any time after his appointment;

Provided that during the proceedings he shall give such advice with the prior permission of the court martial.

- (b) It shall be his duty to invite the attention of the court martial to any irregularity in the proceedings. Whether or not he is consulted, he shall inform the court martial and the authority convening the court martial of any defect in the charge or in the constitution of the court martial, and shall give his advice on any matter before the court martial.
- (c) He shall take all such action as may be necessary to ensure that the accused does not suffer any disadvantage in consequence of any incapacity to examine or cross-examine witnesses or to give evidence clearly, and may for that purpose, with the permission of the court martial question any witness on any relevant matter.
- (d) At the conclusion of the case he shall, unless both he and the court martial consider it unnecessary, sum up the evidence and advise the court martial upon the law relating to the case before the court martial proceeds to deliberate upon its finding.

55. (1) Every member of a court martial and the Judge-Advocate, if any, shall take the prescribed oath or make the prescribed affirmation before the commencement of the trial of a case.

Oath or affirmation.

(2) Every witness before a court martial shall take the prescribed oath or make the prescribed affirmation before commencing his evidence.

56. Where three years have elapsed after the commission of any offence by any

Time-limit.

person subject to this Act, he shall not be tried by a court martial for that offence unless it is the offence of mutiny, desertion, or fraudulent enlistment.

may be tried and punished for that offence by a court martial held at any place in which he may be for the time being, if that place is within the jurisdiction of an officer authorized by the President to convene general courts martial.

Trial of offenders who have ceased to be subject to this Act.

57. (1) Where a person subject to this Act commits any offence and thereafter ceases to be a person subject to this Act, he may be taken into and kept in air-force custody and be tried and punished for that offence by a court martial:

60. (1) The names of the members of a court martial shall, before they are sworn or affirmed, be read in the hearing of the accused appearing before the court martial; and the accused shall be asked whether he objects to any such member, and, where as hereinafter provided any such member retires on being objected to and a successor to the retiring member is appointed, the accused shall be asked whether he objects to the succeeding member.

Objections by accused to members of court martial.

Provided that he shall not be so tried after the lapse of six months from the date of the commission of such offence unless such offence is the offence of mutiny, desertion, or fraudulent enlistment.

(2) An accused appearing before a court martial may object, for any reasonable cause, to any member of the court martial, including the president, whether appointed to serve on the court martial originally or to fill a vacancy caused by the retirement of a member objected to, so that the court martial may be constituted of officers to whom the accused has no reasonable objection.

(2) Where a person subject to this Act is sentenced by a court martial to imprisonment or detention for any offence and thereafter ceases to be a person subject to this Act, he may, during his imprisonment or detention, be dealt with as if he continued to be a person subject to this Act.

(3) An objection of an accused to any member of a court martial shall be submitted to the other members of the court martial,

Effect of acquittal or conviction of an offence.

58. A court martial shall not try a person for any offence if—

(4) An objection of an accused to the president of a court martial shall, if upheld by one-third or more of the other members of the court martial, be allowed, and the court martial shall adjourn for the purpose of the appointment of another president.

- (a) he has been already acquitted or convicted of that offence by a court martial or by a competent civil court, or
- (b) the charge against him in respect of that offence has been dismissed by his commanding officer, or
- (c) he has been dealt with summarily for that offence by his commanding officer or by the Commander of the Air Force or by an officer, of a rank not below that of Group Captain, authorized in that behalf by the Commander of the Air Force.

(5) If an objection of an accused to the president of a court martial is allowed, the authority convening the court martial shall appoint another officer as president, and such officer shall act as president subject to the right of the accused to object to him.

For the purposes of this section a person shall not be deemed to have been convicted by a court martial unless the conviction has been confirmed by the authority empowered by this Act to confirm it.

(6) An objection of an accused to a member of a court martial other than the president shall, if upheld by one-half or more of the other members of the court martial, be allowed, and the member objected to shall retire, and the authority

Place of trial.

59. A person subject to this Act who commits an offence in or outside Sri Lanka

convening the court martial shall appoint a successor to the retiring member, subject to the right of the accused to object.

Procedure.

61. (1) If the number of members of a court martial after the commencement of the trial of a case is, by death or otherwise, reduced below the minimum number of members specified in this Act, the court martial shall be dissolved.

(2) If after the commencement of the trial of a case the president of a court martial dies or is otherwise unable to attend the court martial and the number of members of the court martial is not reduced below the minimum number of members specified in this Act, the authority who convened the court martial may appoint the senior member of the court martial, if of sufficient rank, to be president, and the trial shall proceed accordingly, but if he is not of sufficient rank, the court martial shall be dissolved.

(3) If the Judge-Advocate appointed to a court martial dies or is unable to attend the court martial owing to illness or any other cause, the court martial shall adjourn and the president shall report the circumstance to the authority who convened the court martial; and in the case of death of the Judge-Advocate, or where the authority who convened the court martial is of the opinion that it is inexpedient to delay the trial until the Judge-Advocate who is unable to attend the court martial is able to do so, the court martial shall be dissolved.

(4) If the trial of an accused before a court martial cannot, within a reasonable time having regard to all the circumstances, be continued owing to the illness of the accused, the court martial shall be dissolved.

(5) Where a court martial convened for the trial of an accused is dissolved under any of the preceding provisions of this section, the accused may be tried again before another court martial, without prejudice to the provisions of section 56.

(6) The president of a court martial may, on any deliberation amongst the members of the court martial, cause the place where the court martial sits to be cleared of all other persons.

(7) A court martial may adjourn from time to time.

(8) A court martial may, where necessary, view any place.

(9) Every question before a court martial shall be decided by the majority vote of the members of the court martial. Where there is an equality of votes of the members of a court martial on the question of the finding in any case, the accused in that case shall be deemed to be acquitted. Where there is an equality of votes of the members of a court martial on the sentence in any case or on any question arising after the commencement of the hearing of any case other than the question of the finding, the president shall have a casting vote.

(10) When a court martial recommends a person under sentence to mercy, the recommendation shall be attached to and form part of the proceedings of the court martial, and shall be promulgated and communicated to such person, together with the finding and sentence.

62. When a person is charged with an offence before a court martial and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence although he was not charged with it.

When offence proved is included in offence charged.

63. (1) Subject to the provisions of the other subsections of this section, the conviction of, and the sentence passed on, an accused by a court martial shall not be valid until confirmed by the authority having power under section 64 to confirm such conviction and sentence.

Conviction and sentence not valid till confirmation.

(2) A sentence of death passed on any person by a court martial in respect of an offence committed by him while not on active service shall not be carried into effect unless it has been confirmed both by the authority referred to in subsection (1) of this section and by the President.

(3) A sentence of death passed on any person by a field general court martial in respect of an offence committed by him while on active service shall not be carried into effect unless it has been confirmed both by the authority referred to in subsection (1)

of this section and by the air or senior officer commanding the force with which that person was serving on the date of sentence.

64. The authority who shall have power to confirm the conviction of an accused, and the sentence passed on him, by a court martial shall—

- (a) if that court martial is a general court martial, be the President or such officer of a rank not below that of senior officer as may be authorized by the President, or
- (b) if that court martial is a field general court martial, be an officer authorized by the President as provided in paragraph (a) of this section, or
- (c) if that court martial is a district court martial, be an officer authorized by the President to convene general courts martial or an officer empowered by any such authorized officer to confirm the conviction of, and the sentence passed on, an accused by a district court martial:

Provided, however, that where the authority having power to confirm the conviction of, and the sentence passed on, an accused by a general court martial or a district court martial has served as a member of that court martial, he shall refer such conviction and sentence for confirmation to a superior authority competent to confirm the conviction of, and the sentence passed on, an accused by a like description of court martial, and, if such conviction and sentence are referred to such superior authority, such superior authority shall, for the purposes of this Act, be deemed to be the authority having the power to confirm such conviction and sentence.

65. (1) The authority having the power to confirm the conviction of, and the sentence passed on, an accused by any court martial may—

- (a) refer such conviction and sentence, or either of them, to that court martial for revision once, but not more than once,

(b) if such conviction and sentence are, or either of them is, revised once by that court martial, or if such conviction and sentence are, or either of them is, not referred to that court martial for revision, confirm such conviction and sentence either in the revised form or in the original form;

(c) withhold confirmation wholly or partly, and refer such conviction and sentence or the part thereof not confirmed, to a superior authority competent to confirm the conviction of, and the sentence passed on, an accused by a like description of court martial; and

(d) in regard to the sentence—

- (i) mitigate the punishment to a less amount of the same punishment,
- (ii) remit the whole or a part of the punishment,
- (iii) commute the punishment to a different form of punishment lower in the scale of punishments authorized by this Act,
- (iv) suspend for such time as he may determine the execution of the sentence, and
- (v) where the sentence is one of imprisonment or detention passed on an airman, confirm the sentence and direct that the airman be not committed to prison or detention barracks until the order of a superior air-force authority referred to in section 68 has been obtained.

(2) If the authority having the power to confirm the conviction of, and the sentence passed on, an accused by any court martial refers such conviction and sentence for revision to the superior authority referred to in paragraph (c) of subsection (1) of this section, such superior authority shall, for the purposes of this Act, be deemed to be the authority having the power to confirm such conviction and sentence.

Authorities empowered to confirm convictions and sentences.

Powers of confirming authority.

Revision of conviction and sentence on reference to court martial.

66. (1) If the conviction of an accused by a court martial is referred for revision to the court martial by the authority having the power to confirm it, the court martial may affirm the conviction, or revoke it and record a new finding. If the conviction is revoked, the court martial shall revoke the sentence also, and, if the new finding is not one of acquittal, shall pass a new sentence which shall not be more severe than the original sentence.

(2) If only the sentence passed on an accused by a court martial is referred to the court martial for revision, the court martial may affirm or vary the sentence, but shall not enhance it or substitute for it any other punishment which is more severe in the scale of punishments authorized by this Act.

Revision of sentence which has been confirmed.

67. The President or any prescribed officer may, in accordance with such regulations as may be made in that behalf, revise any sentence passed on an accused by a court martial and confirmed by an authority having the power to confirm it, and in revising the sentence may—

- (a) mitigate the punishment to a less amount of the same punishment;
- (b) remit the whole or a part of the punishment; and
- (c) commute the punishment to a different form of punishment lower in the scale of punishments authorized by this Act.

Suspension and remission of sentence of imprisonment or detention passed on an airman.

68. (1) Where a sentence of imprisonment or detention is passed on an airman by a court martial, a superior air-force authority may—

- (a) direct that a committal to prison or detention barracks shall not be issued until his order has been obtained, and
- (b) suspend the sentence whether or not the airman has already been committed to prison or detention barracks.

(2) Where a sentence of imprisonment or detention passed on an airman is

suspended under this section by a superior air-force authority before the airman has been committed to prison or detention barracks, the airman if in custody shall be released, and, notwithstanding anything in this Act, that sentence shall not begin to run until the airman is ordered by such authority to be committed to prison or detention barracks under that sentence.

(3) Where a sentence of imprisonment or detention passed on an airman is suspended under this section by a superior air-force authority after the airman has been committed to prison or detention barracks, the airman shall be released and the currency of that sentence shall be suspended from the day on which he is released until he is again ordered by such authority to be committed to prison or detention barracks under that sentence-

(4) A superior air-force authority may, at any time whilst a sentence passed on an airman is suspended under this section, make order that the airman be committed to prison or detention barracks, and from the date of such order the sentence shall cease to be suspended.

(5) Where a sentence passed on an airman has been suspended under this section, the case may at any time, and shall, at intervals of not more than three months, be reconsidered by a competent air-force authority, and if on any reconsideration it appears to the competent air-force authority that the conduct of the airman since his conviction has been such as to justify a remission of the sentence, he shall remit it.

(6) Where an airman whilst a sentence passed on him is suspended under this section is sentenced by a court martial to imprisonment or detention for a fresh offence, a superior air-force authority may direct that the two sentences shall run either concurrently or consecutively.

(7) The powers conferred by this section shall be in addition to and not in derogation of any other powers relating to the suspension or remission of sentences.

(8) In this section—

" superior air-force authority " means the President, the Commander of the Air Force, or any officer, not below the rank of Group Captain, who is authorized by the President to exercise the powers under this section, or the officer in chief command of any such part of the Air Force as may be on active service outside Sri Lanka, and

" competent air-force authority " means a superior air-force authority or any officer, not below the rank of senior officer, who is authorized by a superior air-force authority to exercise the powers conferred by subsection (5) of this section.

Commence-
ment of
sentence.

69. A term of imprisonment or detention to which a person is sentenced by a court martial shall, whether the sentence has been revised or not, be reckoned to commence on the day on which the original sentence was signed by the president of that court martial.

Execution of
sentence of
imprisonment.

70. A sentence of imprisonment passed by a court martial on any person shall be executed by causing that person to undergo the term of his imprisonment in an air-force prison or detention barracks or in any other place of air-force custody or in a civil prison, or partly in one way and partly in another.

Execution of
sentence of
detention.

71. A sentence of detention passed by a court martial or a commanding officer on any person shall be executed by causing that person to undergo the term of his detention in detention barracks or in air-force custody or partly in one way and partly in the other, but not in a prison.

Summoning
and privilege of
witnesses at
courts martial.

72. (1) Every person required to give evidence before a court martial shall be summoned in the prescribed manner.

(2) Every person summoned to attend a court martial as a witness shall, during his attendance at the court martial and while going to and returning from the court martial, have the same privilege from arrest as he would have if he were a witness before a civil court.

73. (1) At all proceedings before a court martial the prosecution as well as the defence shall be entitled to be represented by counsel. Counsel at court martial.

(2) The following provisions shall have effect with respect to the conduct of counsel appearing on behalf of the prosecution or defence at a court martial;—

(a) Any conduct of a counsel which would be liable to censure, or would be a contempt of court, if it occurred before a civil court, shall likewise be deemed liable to censure, or be deemed a contempt of the court martial, if it occurs before a court martial.

(b) Where the conduct of a counsel appearing before a court martial is liable to censure or is deemed a contempt of the court martial, the president of the court martial may under his hand certify such conduct of that counsel to the Court of Appeal, and that court may thereupon deal with that counsel in like manner as if such conduct had occurred before that court.

(c) Where the conduct of a counsel appearing before a court martial is liable to censure or is deemed a contempt of the court martial, the president of the court martial may make an order refusing to hear him and may adjourn the proceedings in order to enable other counsel to be retained.

74. (1) Where it appears to a court martial that any person charged before it with an offence is of unsound mind and consequently incapable of making his defence, the court martial shall record an express finding of the fact of his unsoundness of mind and incapacity; and such person shall be kept in custody in the prescribed manner until the directions of the Minister thereon are obtained, or until any earlier time at which such person is fit to take his trial. Accused who is of unsound mind.

(2) Where, on the trial by a court martial of a person charged with an offence, it appears that such person did the act or

made the omission with which he is charged, but that he was of unsound mind at the time of such act or omission, the court martial shall record an express finding that such person was guilty of such act or omission but was of unsound mind at the time when he did the act or made the omission; and such person shall be kept in custody in the prescribed manner until the directions of the Minister thereon are obtained.

(3) A finding by a court martial under this section shall be subject to confirmation in like manner as the conviction of, and the sentence passed on, a person charged with an offence before that court martial.

(4) After the finding of a court martial under this section as to the unsoundness of mind of any person is confirmed as hereinbefore provided, the Minister may give orders for the safe custody, during his pleasure, of that person in such place and in such manner as the Minister thinks fit.

(5) If a person imprisoned or undergoing detention by virtue of this Act becomes unsound in mind, then, without prejudice to any other provision for dealing with such person, the Minister may, upon a certificate by two qualified medical practitioners that such person is of unsound mind, order that such person shall be removed to a mental hospital or other place for the reception of persons of unsound mind and that he shall be there confined for the unexpired term of his imprisonment or detention or until he is again of sound mind ; and, if before the expiry of that term such person is certified in the like manner to be again of sound mind, the Minister may order that such person shall be removed to any prison or detention barracks in which he might have been confined if he had not become unsound in mind and that he shall there serve the remainder of that term.

Right of person tried by court martial to copy of proceedings.

75. (1) Any person tried by a court martial for an offence shall be entitled to obtain from the person having the custody of the record of the proceedings of that court martial a copy thereof, upon payment for it at such rate not exceeding ten cents for every folio of seventy-two words as may be prescribed.

(2) The right conferred by subsection (1) of this section shall be subject to the condition that the demand for the copy of the proceedings of the court martial by the person referred to in that subsection is made—

- (a) where the court martial is a general court martial, at any time within seven years, and
- (b) where the court martial is a field general court martial or a district court martial, at any time within three years,

after the confirmation of his conviction and the sentence passed on him by the court martial or after his acquittal.

(3) If the person referred to in subsection (1) of this section dies within the period of seven or three years specified in subsection (2) of this section, his next of kin shall, within twelve months after his death, have the right to obtain the copy of the proceedings mentioned in subsection (1) of this section.

76. For the purposes of section 75 the record of the proceedings of every court martial shall be preserved in the prescribed manner by the prescribed officer.

Preservation of records of proceedings of court martial,

PART X

CIVIL COURTS

77. (1) Save as provided in subsection (2) of this section, nothing in this Act shall affect the jurisdiction of a civil court to try or to punish for any civil offence any person subject to this Act.

Jurisdiction of civil court not affected by this Act.

(2) If a person subject to this Act is convicted of an offence and sentenced to punishment by a court martial and is afterwards tried for, and convicted of, the same offence, by a civil court, then the civil court shall, in awarding punishment, have due regard to such punishment imposed by the court martial as that person may have already undergone.

Delivery of air-force offenders to the civil power.

78. It shall be the duty of every commanding officer—

- (a) on an order made in that behalf by a civil court, to surrender to that court any officer or airman under his command who is charged with, or convicted of, any civil offence before that court, and
- (b) to assist any police officer or any other officer concerned or connected with the administration of justice to arrest any officer or airman so charged or convicted.

Issue of writs by Court of Appeal.

79. (1) Such of the provisions of Article 140 of the Constitution as relate to the grant and issue of writs of mandamus, certiorari, and prohibition shall be deemed to apply in respect of any court martial or of any air-force authority exercising judicial functions.

(2) The provisions of Article 141 of the Constitution relating to the issue of writs of habeas corpus shall be deemed to apply in respect of any person illegally detained in custody by order of a court martial or other air-force authority.

Actions against persons for acts done under this Act.

80. Any action, prosecution, or proceeding against any person for any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act, shall not be instituted or entertained, unless—

- (a) it is commenced within six months next after the act, neglect, or default complained of,
- (b) written notice setting out the cause of action or the alleged offence, the name and place of abode of the person intending to be the plaintiff or complainant, and any relief claimed, has been delivered to, or left at the residence or official address of, the person against whom the action, prosecution or proceeding is intended to be instituted, and
- (c) one month has expired after such notice has been so delivered or left.

PART XI

EVIDENCE

81. Subject to the other provisions of this Part, the rules of evidence to be adopted in proceedings before a court martial shall be the same as those followed in the civil courts in Sri Lanka-

Rules of evidence.

82. Sections 83 to 93, both inclusive, shall apply to proceedings under this Act whether before a court martial or a civil court notwithstanding anything in any other law.

Application of sections 83 to 93.

83. The attestation paper purporting to be signed by a person on his being enlisted as an airman, or the declaration purporting to be made by a person upon his re-engagement in the Air Force, shall be evidence of the fact that he has given such answers to questions as he is therein represented to have given.

Proof of answers given by a person on enlistment or re-engagement as an airman.

84. The enlistment of a person as an airman in the Air Force may be proved by the production of a copy of his attestation paper certified to be a true copy by the officer having the custody of the attestation paper, without proof of the handwriting of such officer or of his having such custody.

Proof of enlistment.

85. A letter, return, or other document stating, in respect of any person, that such person—

Letters, returns, or other documents respecting service.

- (a) has, or has not, at any time served in, or been discharged from, the Air Force, or
- (b) has, or has not, held any rank or appointment in, or been posted or transferred to, any part of the Air Force, or served in any particular country or place, or
- (c) has been, or has not been, authorized to use or wear any Air Force decoration, medal, medal ribbon, badge, wound stripe or emblem, the use or wearing of which by an unauthorized person is an offence under this Act,

and purporting to be signed by or on behalf of the Minister, or by the commanding officer, or the officer having the custody of the records, of that part of the Air Force to which such person appears to have belonged or alleges that he belongs or at any time belonged, shall be evidence of the facts stated in such letter, return, or other document.

Copies of regulations and orders printed by Government Printer.

86. Copies, purporting to be printed by the Government Printer, of regulations or orders made under this Act shall be evidence of such regulations or orders.

Air Force list or gazette.

87. An Air Force list or gazette purporting to be published by authority of the President and printed by the Government Printer shall be evidence of the ranks of the officers therein mentioned, and of any appointments held by such officers, and of the parts of the Air Force to which such officers belong or at any time belonged.

Orders made under this Act by air-force authorities.

88. An order made under this Act by an air-force authority shall be deemed to be evidence of the matters directed by this Act to be stated therein, and a copy of such order purporting to be certified to be a true copy by the officer therein alleged to be authorized by the Minister to certify it shall be admissible in evidence.

Record made in a service book.

89. Where a record is made in any service book in pursuance of any written law or of air-force duty and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated. A copy of such record purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

Descriptive return.

90. A descriptive return, within the meaning of section 150, purporting to be signed by a Magistrate, shall be evidence of the matters therein stated.

Certificate regarding surrender of alleged deserter or absentee without leave.

91. (1) Where any officer or airman charged with being a deserter or absentee without leave has surrendered to a provost marshal, assistant provost marshal or other officer, a certificate purporting to have been signed by such provost marshal, assistant provost marshal or other officer and stating the fact, date, and place of surrender, shall be evidence of the matters so stated.

(2) Where any officer or airman charged with being a deserter or absentee without leave has surrendered to a police officer in charge of a police station and has been delivered into air-force custody by such police officer, a certificate purporting to be signed by such police officer and stating the fact, date, and place of surrender shall be evidence of the matters so stated.

92. Where any officer or airman has been arrested and taken to any office, station, or post, in any place outside Sri Lanka, which corresponds to a police station in Sri Lanka, or has on surrender been taken into custody at any such office, station, or post, a certificate which purports to be signed by the officer in charge of such office, station, or post and which states the fact, date, and place of arrest or surrender shall be evidence of the matters so stated.

93. A copy of the whole or any part of the proceedings of a court martial purporting to be certified by the Commander of the Air Force, or by any officer thereto authorized by the Commander of the Air Force, to be a true copy of such proceedings or of such part, shall be admissible in evidence without proof of the signature of such Commander or officer.

94. Where any person subject to this Act has been tried for any offence by a civil court, the Registrar of such court shall, if requested by the commanding officer of such person or by any other officer authorized in that behalf by such commanding officer, transmit to the officer by whom the request is made a certificate setting out the offence for which such person was tried and the judgment of such court thereon. Such certificate shall, in any proceedings before a court martial, be evidence of the matters stated therein.

PART XII

AIR-FORCE OFFENCES

OFFENCES IN RESPECT OF AIR FORCE SERVICE

95. Every person subject to this Act who—

- (a) shamefully abandons or delivers up any fortification, place, post, garrison, or guard, or uses any

Certificate regarding arrest or surrender of officer or airman outside Sri Lanka.

Copy of proceedings of court martial,

Evidence of conviction or acquittal by civil court.

Offences in relation to the enemy punishable with death.

means to compel or induce any governor, commanding officer, or other person shamefully to abandon or deliver up any fortification, place, post, garrison, or guard, which it was the duty of such governor, officer, or person to defend, or

- (b) shamefully casts away his arms, ammunition, or tools in the presence of the enemy, or
- (c) treacherously holds correspondence with or gives intelligence to the enemy, or treacherously or without good cause sends a flag of truce to the enemy, or
- (d) assists the enemy with arms, ammunition, or supplies or knowingly harbours or protects an enemy not being a prisoner, or
- (e) having been made a prisoner of war, voluntarily serves with or voluntarily aids the enemy, or
- (f) knowingly does, when on active service, any act calculated to imperil the success of the Air Force, or any force co-operating therewith, or any part of the Air Force or of any such force, or
- (g) treacherously or shamefully causes the "capture or destruction by the enemy of any of the aircraft of the Republic, or
- (h) treacherously gives any false air signal or alters or interferes with any air signal, or
- (i) when under orders to carry out any warlike operation in the air, treacherously or shamefully fails to use his Utmost exertions to carry such orders into effect,

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to suffer death or any less severe punishment in the scale set out in section 133.

96. Every person subject to this Act who while on active service—

- (a) without orders from his superior officer leaves the ranks in order to secure prisoners or booty, or on pretence of taking wounded men to the rear, or
- (b) without orders from his superior officer wilfully destroys or damages any property, or
- (c) is taken prisoner, owing to his failure to take due precaution, or through his disobedience of orders, or wilful neglect of duty, or having been taken prisoner, fails to rejoin the Air Force when able to do so, or
- (d) without due authority either holds correspondence with or gives intelligence to, or sends a flag of truce to the enemy, or
- (e) by word of mouth, or in writing, or by signals, or otherwise spreads reports calculated to create unnecessary alarm or despondency, or
- (f) in action, or previously to going into action, uses words calculated to create alarm or despondency, or
- (g) behaves or induces others to behave before the enemy in such manner as to show cowardice, or
- (h) negligently causes the capture or destruction by the enemy of any of the aircraft of the Republic, or
- (i) when under orders to carry out any warlike operation in the air negligently or through other default fails to use his utmost exertions to carry such orders into effect,

Offences in relation to the enemy not punishable with death.

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133.

Offences punishable more severely on active service than at other times.

97. (1) Every person subject to this Act who treacherously makes known the parole, watchword, or countersign to any person not entitled to receive it, or treacherously gives a parole, watchword, or countersign different from what he received, or without due authority alters or interferes with any air signal, shall be guilty of an air-force offence and on conviction by a court martial shall—

- (a) where such offence is committed by him while on active service, be liable to suffer death or any less severe punishment in the scale set out in section 133, and
- (b) where such offence is committed by him while not on active service, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

(2) Every person subject to this Act who—

- (a) leaves the ranks or his post without the orders of his commanding officer in order to go in search of plunder, or
- (b) forces any escort or safeguard drawn from the Air Force or from an allied force, or
- (c) forces or strikes a sentinel of the Air Force or of an allied force, or
- (d) breaks into any house or other place in search of plunder, or
- (e) being an airman acting as sentinel, sleeps or is drunk at his post, or
- (f) without orders from his superior officer, leaves his guard, piquet, patrol or post, or
- (g) by discharging firearms, making signals, using words, or by any

means whatever, intentionally occasions false alarm, or

- (h) being an airman acting as sentinel, leaves his post before he is properly relieved,

shall be guilty of an air-force offence and, on conviction by a court martial, shall—

- (i) where such offence is committed by him while on active service, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and
- (ii) where such offence is committed by him while not on active service, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

(3) Every person subject to this Act who—

- (a) by discharging firearms, making signals, using words, or by any means whatever, negligently occasions false alarm, or
- (b) makes known the parole, watchword, or countersign to any person not entitled to receive it, or, without good and sufficient cause, gives a parole, watchword, or countersign different from what he received, or
- (c) impedes the provost marshal or any assistant provost marshal or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of the provost marshal, or, when called on, refuses to assist in the execution of his duty the provost marshal, assistant provost marshal, or any such officer, non-commissioned officer, or other person, or

- (d) does violence to any person bringing provisions or supplies to the Air Force or any part thereof or to any foreign force co-operating therewith, or commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving, or
- (e) irregularly detains or appropriates to his own corps, unit or detachment any provisions or supplies proceeding to any other part of the Air Force or to any such foreign force as aforesaid, contrary to any orders issued in that respect,

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

MUTINY AND INSUBORDINATION

Mutiny and sedition.

98. Every person subject to this Act who—

- (a) causes or conspires with any other person to cause mutiny or sedition in the Army, Navy or Air-Force of Sri Lanka or in any force co-operating therewith, or
- (b) endeavours to seduce any person in any such force as aforesaid from allegiance to the Republic, or to persuade any person in any such force as aforesaid to join in any mutiny or sedition, or
- (c) joins in, or being present does not use his utmost endeavours to suppress, any mutiny or sedition in any such force as aforesaid, or
- (d) acquiring the knowledge of any actual or intended mutiny or sedition in any such force as aforesaid, does not without delay communicate such knowledge to his commanding officer,

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to suffer death or any less severe punishment in the scale set out in section 133.

99. (1) Every person subject to this Act who strikes, or uses or offers any violence to, his superior officer while such officer is performing his duties, shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133.

Striking or threatening superior officer.

(2) Every person subject to this Act who strikes, or uses or offers any violence or uses threatening or insubordinate language to, his superior officer shall be guilty of an air-force offence and, on conviction by a court martial, shall—

- (a) where such offence is committed by him while on active service, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and
- (b) where such offence is committed by him while not on active service, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

100. (1) Every person subject to this Act who disobeys, in such manner as to show a wilful defiance of authority, any lawful command given personally by his superior officer while such officer is performing his duties, whether such command is given orally, or in writing or by signal, or otherwise, shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133.

Disobedience to superior officer.

(2) Every person subject to this Act who disobeys any lawful command given by his superior officer shall be guilty of an air-force offence and, on conviction by a court martial, shall—

- (a) where such offence is committed by him while on active service, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and
- (b) where such offence is committed by him while not on active service, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

102. (1) Every person subject to this Act who neglects to obey any general, local or other order shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years.

Neglect to obey general or other orders.

(2) In this section the expression "general order" does not include a regulation made under this Act.

DESERTION, FRAUDULENT ENLISTMENT, AND ABSENCE WITHOUT LEAVE

163. (1) Every person subject to this Act who—

Desertion.

Insubordination.

101. Every person subject to this Act who—

- (a) being concerned in any quarrel, affray, or disorder, refuses to obey any officer (though of inferior rank) who orders him into arrest, or strikes or uses or offers violence to any such officer, or
- (b) strikes or uses or offers violence to any other person, whether subject to this Act or not, in whose custody he is placed, and whether such other person is or is not his superior officer, or
- (c) resists an escort whose duty it is to arrest him or to have him in charge, or
- (d) being an airman, breaks out of barracks, camp, or quarters,

- (a) deserts or attempts to desert the Air Force, or
- (b) persuades, endeavours to persuade, procures or attempts to procure, any person subject to this Act to desert the Air Force,

shall be guilty of an air-force offence and, on conviction by a court martial, shall—

- (i) where such offence is committed by him while on active service or under orders for active service, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and
- (ii) where such offence is committed by him under any other circumstances, be liable for the first offence to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133, and for the second or any subsequent offence to suffer rigorous imprisonment for a

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous

term not less than three years or any less severe punishment in the scale set out in section 133.

(2) Where a person charged with the offence of deserting or attempting to desert the Air Force has fraudulently enlisted once or oftener, he may, for the purposes of trial for that offence, be deemed to belong to any one or more of the corps to which he has been appointed or transferred as well as to the corps to which he properly belongs ; and it shall be lawful to charge such a person with any number of offences under this section at the same time, and to give evidence of such offences against him, and if he be convicted thereof to punish him accordingly; and further it shall be lawful on conviction of such a person for two or more such offences to award him the higher punishment allowed by this section for a second offence as if he had been convicted by a previous court martial of one of such offences.

(3) For the purposes of the liability under this section to the higher punishment for a second offence, a previous offence of fraudulent enlistment may be reckoned as a previous offence under this section.

Fraudulent enlistment.

104. (1) Every person subject to this Act who, when belonging to the Regular Air Force or Regular Air Force Reserve and without having obtained a regular discharge therefrom or otherwise fulfilled the conditions enabling him to enlist or enrol, enlists or enrolls himself in the Volunteer Air Force or in any naval or military force in Sri Lanka, or who, when belonging to the Volunteer Air Force or Volunteer Air Force Reserve or to any naval or military force of Sri Lanka and without having obtained a regular discharge therefrom or otherwise fulfilled the conditions enabling him to enlist or enrol, enlists or enrolls himself in the Regular Air Force, shall be guilty of the air-force offence of fraudulent enlistment and shall, on conviction by a court martial, be liable—

(a) for the first offence to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133, and

(b) for the second or any subsequent offence to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133.

(2) Where a person has fraudulently enlisted on several occasions he may, for the purposes of this section, be deemed to belong to any one or more of the corps to which he has been appointed or transferred, as well as to the corps to which he properly belongs; and it shall be lawful to charge such a person with any number of offences under this section at the same time, and to give evidence of such offences against him, and if he be convicted thereof to punish him accordingly; and further it shall be lawful on conviction of such a person for two or more such offences to award him the higher punishment allowed by this section for a second offence as if he had been convicted by a previous court martial of one of such offences.

(3) Where a person is convicted of the offence of fraudulent enlistment, then for the purposes of his liability under this section to the higher punishment for a second offence, the offence of deserting or attempting to desert the Air Force may be reckoned as a previous offence of fraudulent enlistment under this section, with the exception that the offence of deserting or attempting to desert committed by him next before any offence of fraudulent enlistment shall not upon his conviction of that fraudulent enlistment be reckoned as a previous offence of deserting or attempting to desert.

105. Every person subject to this Act who—

Assistance of or connivance at desertion.

(a) assists any person subject to this Act to desert the Air Force, or

(b) being cognizant of any desertion or intended desertion of a person subject to this Act, does not forthwith give notice to his commanding officer, or take any steps in his power to cause the deserter or intending deserter to be arrested,

shall be guilty of an air-force offence and shall, on conviction by a court martial be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Absence from duty without leave.

106. Every person subject to this Act who—

- (a) absents himself without leave, or
- (b) fails to appear at the place of parade or rendezvous appointed by his commanding officer, or goes from thence without leave before he is relieved, or without urgent necessity quits his duty or duties, or
- (c) being an airman, when in camp or elsewhere, is found beyond any limits fixed or in any place prohibited by any general, local or other order, without a pass or written leave from his commanding officer, or
- (d) being an airman without leave from his commanding officer or without due cause absents himself from any school when duly ordered to attend there,

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

DISGRACEFUL CONDUCT

Scandalous conduct of officer.

107. Every officer who, being a person subject to this Act, behaves in a scandalous manner, unbecoming the character of an officer and a gentleman, shall be guilty of an air-force offence and shall, on conviction by a court martial, be cashiered.

Fraud by person in charge of property.

108. Every person subject to this Act who, being charged with or concerned in the care or distribution of any public or service

property, dishonestly misappropriates, or commits theft or criminal breach of trust of, such property, or abets the dishonest misappropriation, or the committing of theft or criminal breach of trust of, such property, or wilfully damages such property, shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133.

109. Every person subject to this Act who— Disgraceful conduct.

- (a) malingers, or feigns or causes in himself disease or infirmity, or
- (b) wilfully maims or injures himself or any other person subject to this Act, whether at the instance of that person or not, with intent thereby to render himself or that person unfit for service, or causes himself to be maimed or injured by any person with intent thereby to render himself unfit for service, or
- (c) by wilful misconduct, or by wilful disobedience of orders whether in hospital or otherwise, produces or aggravates disease or infirmity, or delays its cure, or
- (d) dishonestly misapplies, or commits theft or criminal breach of trust of, or knowing it to be stolen property receives, any property belonging to a person subject to this Act, or belonging to any service band, service or garrison mess, or service or garrison institution, or to any navy, army or air-force institute, or any public property, or
- (e) commits any other fraudulent act hereinbefore not particularly specified, or any act of a cruel, indecent or unnatural kind,

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

DRUNKENNESS

Drunkenness.

110. Every person subject to this Act who is drunk, whether on duty or while not on duty, shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133, or to pay a fine not exceeding fifty rupees, or to suffer such imprisonment or such punishment as well as to pay such fine :

Provided that, where such person is an airman and such offence is committed by him while he is not on active service or on duty, the sentence passed on him shall not exceed detention for a period of six months, with or without the addition of such fine.

OFFENCES IN RELATION TO PERSONS IN CUSTODY

Permitting escape of person in custody.

111. Every person subject to this Act who—

- (a) when in command of a guard, piquet, patrol, or post, releases without proper authority whether wilfully or otherwise, any person committed to his charge, or
- (b) wilfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable, if he has acted wilfully, to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and in any other case to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

112. Every person subject to this Act who— Irregular arrest or confinement.

- (a) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation, or
- (b) having committed a person to the custody of any officer, non-commissioned officer, provost marshal, or assistant provost marshal, fails without reasonable cause to deliver at the time of the committal, or as soon as practicable, and in any case within twenty-four hours thereafter, to such officer, non-commissioned officer, provost marshal, or assistant provost marshal an account in writing signed by himself of the offence with which the person so committed is charged, or
- (c) being in command of a guard and having received any person into his custody, does not as soon as he is relieved from his guard or duty, or, if he is not sooner relieved, within twenty-four hours after that person is committed to his custody, give in writing, to the officer to whom he may be ordered to report, that person's name and offence so far as known to him, and the name and rank of the officer or other person by whom that person was charged, accompanied, if he has received the written account mentioned in paragraph (b), by that account,

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

113. Every person subject to this Act who, being under arrest, or in confinement or prison, or otherwise in lawful custody, escapes or attempts to escape, shall be guilty Escape from confinement.

of an air-force offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

OFFENCES IN RELATION TO PROPERTY

Corrupt dealings in respect of supplies to the Air Force.

114. Every person subject to this Act who takes any reward, fee, or advantage in respect of or in connexion with the purchase of provisions or merchandise brought into any camp, station, barracks, or place, in which he has any command or authority, or the purchase of any provisions or stores for the use of the Air Force or any part of the Air Force, shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Deficiency in and injury to equipment.

115. (1) Every person subject to this Act who—

- (a) whether by pawning, sale, destruction, or otherwise, makes away with, or is concerned in making away with, his arms, ammunition, equipment, instruments, clothing, service necessaries, or any vehicle, vessel, or animal of which he has charge, or any public property issued to him for his use or entrusted to his care for air-force purposes, or
- (b) loses by neglect any property in the foregoing provisions of this section mentioned, or
- (c) whether by pawning, sale, destruction, or otherwise, makes away with any air-force decoration granted to him, or
- (d) wilfully injures any property in the foregoing provisions of this section mentioned, or any property

belonging to any member of the Air Force, or to any service band, service or garrison mess, or service or garrison institution or to any navy, army, or air-force institute, or any public property, or

- (e) ill-treats any animal used in the Air Force,

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

(2) Every person subject to this Act who—

- (a) wilfully or by wilful neglect or negligently damages, destroys or loses any of the aircraft of the Republic or aircraft material, or
- (b) without lawful authority disposes of any of the aircraft of the Republic or aircraft material, or
- (c) during a state of war, wilfully and without proper occasion or negligently causes the sequestration by or under the authority of a neutral state or the destruction in a neutral state of any of the aircraft of the Republic,

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable, if he has acted wilfully or with wilful neglect, to suffer rigorous imprisonment for a term not less than three years or any less severe punishment in the scale set out in section 133, and, in any other case, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

OFFENCES IN RELATION TO FALSE DOCUMENTS AND STATEMENTS

116. Every person subject to this Act who—

- (a) in any report, return, muster roll, pay list, certificate, book, route, or other document made or signed by

Falsifying official documents; and false declarations.

him or of the contents of which it is his duty to ascertain the accuracy, knowingly makes or is privy to the making of—

- (i) any false or fraudulent statement, or
- (ii) any omission with intent to defraud, or
- (b) knowingly and with intent to injure any person or to defraud, suppresses, defaces, alters, or makes away with any document which it is his duty to preserve or produce, or
- (c) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration,

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

118. Every person subject to this Act who— False accusation or false statement.

- (a) being an officer or airman, makes a false accusation against any other officer or airman, knowing such accusation to be false, or
- (b) being an officer or airman, in making a complaint where he thinks himself wronged, knowingly makes any false statement affecting the character of any other officer or airman, or knowingly and wilfully suppresses any material facts, or
- (c) being an airman, falsely states to his commanding officer that he has been guilty of desertion or of fraudulent enlistment, or of desertion from any naval or military force of Sri Lanka, or has served in and been discharged from the Air Force or any such naval or military force,

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Neglect to report, and signing in blank.

117. Every person subject to this Act who—

- (a) when signing any document relating to pay, arms, ammunition, equipment, service necessaries, furniture, bedding, blankets, sheets, utensils, clothing, provisions, forage, or stores, leaves in blank any material part for which his signature is a warranty, or
- (b) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send,

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

OFFENCES IN RELATION TO COURTS MARTIAL

119. Every person subject to this Act who— Offences in relation to courts martial.

- (a) being duly summoned to attend as a witness before a court martial, makes default in attending, or
- (b) refuses to take an oath or make an affirmation lawfully required by a court martial to be taken or made, or
- (c) refuses to produce any document in his power or control lawfully required by a court martial to be produced by him, or
- (d) refuses when a witness to answer any question to which a court martial may lawfully require an answer, or

(e) commits contempt of a court martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court martial,

(2) For the purposes of this section, the expression " dismissed with disgrace " means dismissed for misconduct or on account of conviction of an offence for which a sentence of imprisonment is passed.

shall be guilty of an air-force offence and shall, on conviction by a court martial, other than the court martial in relation to or before which the offence was committed, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133 :

122. Every person subject to this Act who, when enlisted as an airman, has wilfully made a false answer to any question set out in the attestation paper signed by him, shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

False answers on enlistment.

Provided that where a person subject to this Act is guilty of contempt of a court martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court martial, such court martial may, instead of causing him to be tried by another court martial, sentence him to simple or rigorous imprisonment, or, if he is an airman, to detention, for a term not exceeding twenty-one days.

123. Every person subject to this Act who—

General offences in relation to enlistment.

(a) is concerned in the enlistment of any other person in the Air Force, when he knows or has reasonable cause to believe that such other person by enlisting commits an offence, or

(b) wilfully contravenes any provision of law relating to the enlistment of airmen,

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

False evidence.

120. Every person subject to this Act who, when examined on oath or affirmation before a court martial or by any officer authorized by this Act to examine him on oath or affirmation, wilfully gives false evidence, shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

MISCELLANEOUS AIR-FORCE OFFENCES

124. Every person subject to this Act who uses traitorous or disloyal words regarding the President shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Traitorous words.

OFFENCES IN RELATION TO ENLISTMENT

Enlistment of airman, sailor or soldier discharged with disgrace.

121. (1) Every person subject to this Act who, having been dismissed with disgrace from the Air Force or from any naval or military force of Sri Lanka, has afterwards enlisted in the Air Force without declaring the circumstances of his dismissal, shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

125. Every person subject to this Act who, orally or in writing, or by signal or otherwise, discloses the numbers or position

Injurious disclosures.

of any forces in Sri Lanka, or any magazines or stock of such forces, or any preparations for, or orders relating to, operations or movements of such forces, at such time and in such manner as, in the opinion of the court martial, to have produced effects injurious to such forces, shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Ill-treating
airman.

126. Every officer, warrant officer or non-commissioned officer who—

- (a) strikes or ill-treats any airman, or
- (b) having received the pay of any officer or airman, unlawfully detains or unlawfully refuses to pay it when due,

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is a warrant officer or a non-commissioned officer, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Duelling and
attempting
to commit
suicide.

127. Every person subject to this Act who—

- (a) fights, or promotes, or is concerned in or connives at fighting, a duel, or
- (b) attempts to commit suicide,

shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

128. Every person subject to this Act who, on application being made to him, neglects or refuses to deliver to a civil court, or to assist in the lawful arrest of, any officer or airman accused of an offence punishable by a civil court, shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Refusal to
deliver to civil
court officers
and airmen
accused of civil
offences.

129. (1) Subject to the provisions of subsection (2) of this section, every person subject to this Act who, by any act, conduct, disorder, or neglect, prejudices good order and air-force discipline, shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable, if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133.

Conduct
prejudicial to
air-force
discipline.

(2) No person shall be charged under subsection (1) of this section in respect of any act, conduct, disorder, or neglect which constitutes an offence for which special provision is made in any other section of this Act and which is not a civil offence.

130. Every person subject to this Act who gives or receives, or aids the giving or receiving of, any valuable consideration in respect of any appointment or promotion in or retirement from the Air Force, or any employment therein, shall be guilty of an air-force offence and shall, on conviction by a court martial, be liable to be dismissed from the Air Force.

Illegal
gratification in
connexion with
appointment or
promotion.

PART XIII

**PUNISHMENTS BY COURTS MARTIAL IN
RESPECT OF CIVIL OFFENCES**

131. (1) Where a person subject to this Act is convicted by a court martial of the offence of treason, he shall be liable to suffer death,

Treason,
murder,
culpable
homicide not
amounting
to murder,
and rape.

(2) Where a person subject to this Act is convicted by a court martial of the offence of murder, he shall be liable to suffer death.

(3) Where a person subject to this Act is convicted by a court martial of the offence of culpable homicide not amounting to murder, he shall be liable to suffer simple or rigorous imprisonment for a term not exceeding twenty years.

(4) Where a person subject to this Act is convicted by a court martial of the offence of rape, he shall be liable to suffer simple or rigorous imprisonment for a term not exceeding twenty years.

Any civil offence not mentioned in section 131.

132. Where a person subject to this Act is convicted by a court martial of any civil offence not mentioned in section 131, he shall be liable—

- (a) if he is an officer, to be cashiered or to suffer any less severe punishment in the scale set out in section 133, and, if he is an airman, to suffer simple or rigorous imprisonment for a term not exceeding three years or any less severe punishment in the scale set out in section 133, or
- (b) to suffer the punishment prescribed for such offence by any law of Sri Lanka other than this Act.

PART XIV

SCALE OF PUNISHMENTS BY COURTS MARTIAL

Scale of punishments by courts martial.

133. (1) Subject to the provisions of section 134, the following shall be the scale of punishments, in descending order of severity, which may be inflicted on officers convicted of offences by courts martial:—

- (a) death;
- (b) rigorous imprisonment;
- (c) simple imprisonment;
- (d) cashiering;
- (e) dismissal from the Air Force;

(f) forfeiture, in the prescribed manner of seniority of rank, either in the Air Force or in the corps to which the offender belongs, or in both; or, in the case of an officer whose promotion depends upon length of service, forfeiture of all or any part of his service for the purposes of promotion;

- (g) severe reprimand or reprimand;
- (h) such penal deductions from pay as are authorized by this Act.

(2) Subject to the provisions of section 134, the following shall be the scale of punishments, in descending order of severity, which may be inflicted on airmen convicted of offences by courts martial:—

- (a) death;
- (b) rigorous imprisonment;
- (c) simple imprisonment;
- (d) detention for a term not exceeding three years;
- (e) discharge with ignominy from the Air Force;
- (f) dismissal from the Air Force ;
- (g) in the case of a warrant officer or a non-commissioned officer, reduction to the ranks or to a lower grade, or forfeiture, in the prescribed manner, of seniority of rank;
- (h) in the case of a warrant officer or a non-commissioned officer, severe reprimand or reprimand;
- (i) such forfeiture of and deductions from pay, and such fines, as are authorized by this Act.

134. The following provisions shall apply in regard to punishments which may be inflicted by courts martial:—

- (a) For the purposes of commutation and revision of sentence, detention

Special provisions in regard to punishments by courts martial.

shall not be deemed to be a less severe punishment than imprisonment if the term of detention is longer than the term of imprisonment.

- (b) An officer shall be sentenced to be cashiered before he is sentenced to imprisonment.
- (c) The Minister may cause the restoration of the whole or any part of any lost seniority or forfeited service in the case of an officer who may perform good and faithful service, or who may otherwise be deemed by the Minister to merit such restoration.
- (d) An officer or a non-commissioned officer when sentenced to forfeiture of seniority of rank and an officer when sentenced to forfeiture of all or any part of his service for the purposes of promotion may in addition be sentenced to be severely reprimanded or reprimanded.
- (e) An airman when sentenced to imprisonment may, in addition thereto, be sentenced to be discharged with ignominy from the Air Force.
- (f) Where an airman on active service is guilty of any offence, it shall be lawful for a court martial to inflict for that offence such field punishment, other than flogging or attachment to a fixed object, as may be prescribed, and such field punishment shall be of the nature of personal restraint or of hard labour, but shall not be of a nature to cause injury to life or limb.
- (g) For the purpose of commutation of sentence, the field punishment above mentioned shall be deemed to stand in the scale of punishment next below detention.
- (h) In addition to or in lieu of any other punishment in respect of any offence committed by an airman on active service, it shall be lawful for

a court martial to order that such airman shall forfeit all ordinary pay for a period commencing on the day of the sentence and not exceeding three months.

- (i) In addition to or in lieu of any other punishment in respect of any offence, an offender convicted by a court martial may be sentenced to forfeiture of any deferred pay, service towards pension, air-force decoration, or air-force reward, in such manner as may be prescribed.
- (j) In addition to or in lieu of any other punishment in respect of any offence, an offender may be sentenced by a court martial to any deduction authorized by this Act to be made from his pay.

PART XV

OFFENCES UNDER THIS ACT WHICH ARE NOT AIR-FORCE OFFENCES

135. Every person, other than a person subject to this Act, who without due authority— Unlawful recruiting.

- (a) publishes or causes to be published notices or advertisements for the purpose of procuring recruits for the Air Force, or relating to recruits for the Air Force, or
- (b) opens or keeps any house, place of rendezvous or office connected with the procuring of recruits for the Air Force, or
- (c) receives any person under any such notice or advertisement as aforesaid, or
- (d) directly or indirectly interferes with a duly appointed recruiter in the discharge of his duties,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees.

False answers by applicants for enlistment.

136. Every person, other than a person subject to this Act, who has knowingly made a false answer to any question put to him at an examination for his enlistment as an airman shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding three months.

(b) wilfully produces any disease or infirmity in, or maims or injures, any person whom he knows to be an airman with a view to enabling such person to avoid air-force service, or

Pretending to be a deserter.

137. Every person, other than a person subject to this Act, who falsely represents himself to any military, naval, air-force or civil authority to be a deserter from the Air Force shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding three months.

(c) with intent to enable an airman to render himself, or induce the belief that he is, permanently or temporarily unfit for service, supplies to, or for the use of, such airman any drug or preparation calculated or likely to render him, or lead to the belief that he is, permanently or temporarily unfit for service,

Inducing or assisting officers or airmen to desert or absent themselves without leave.

138. Every person, other than a person subject to this Act, who by any means—

- (a) procures or persuades any officer or airman to desert or absent himself without leave, or attempts to procure or persuade any officer or airman to desert or absent himself without leave, or
- (b) knowing that an officer or airman is about to desert or absent himself without leave, aids or assists him in deserting or absenting himself without leave, or
- (c) knowing any officer or airman to be a deserter or absentee without leave, conceals such officer or airman or aids or assists him in concealing himself, or aids or assists in his rescue from arrest,

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

140. Every person, other than a person subject to this Act, who gives or receives, or aids the giving or receiving of, any valuable consideration in respect of any appointment or promotion in or retirement from the Air Force, or any employment therein, 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 simple or rigorous imprisonment for a term not exceeding six months.

Illegal gratification to persons not subject to this Act in respect of appointments or promotions in the Air Force.

141. (1) Every person, other than a person subject to this Act, who—

- (a) buys, exchanges, takes in pawn, detains, or receives from any person, on any pretence whatsoever, or
- (b) solicits or entices any person to sell, exchange, pawn, or give away, or
- (c) assists or acts for any person in selling, exchanging, pawning, or making away with,

Purchase of service necessities, equipment, stores. &c.

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding six months.

any arms, ammunition, equipment, instruments, service necessities or clothing issued for the use of officers or airmen, or

Interference with air-force duties.

139. Every person, other than a person subject to this Act, who—

- (a) wilfully obstructs, impedes, or otherwise interferes with any officer or airman in the execution of his duties, or

any air-force decorations of any officer or airman, or any furniture, bedding, blankets, sheets, utensils, or stores in the charge of a unit of the Air Force, or any provisions or forage issued for the use of any officer or airman or of any horse belonging to the Air Force, or any other property of the Air Force, shall, unless he proves either that he acted in ignorance of the fact that such article was the property of the Air Force, or that it was purchased at a sale held by order or with the consent of the Minister or the Commander of the Air Force, or that it was the personal property of an officer who had retired or ceased to be an officer, or of an airman who had been discharged, or of the legal representative of any officer or airman who had died, be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees, together with a penalty of treble the value of any property of which such person has become possessed by means of his offence, or to simple or rigorous imprisonment for a term not exceeding six months, or to both such fine and imprisonment. Such penalty may be recovered in like manner as a fine imposed by the Magistrate.

(2) Where any property mentioned in subsection (1) of this section is found in the possession or keeping of any person, such person may be taken or summoned before a Magistrate's Court, and if such court has reasonable ground to believe that the property so found was stolen, or was bought, exchanged, taken in pawn, obtained or received in contravention of this section, then if such person does not satisfy such court that he came by the property so found lawfully and without any contravention of this Act, he shall be liable, on conviction after summary trial, to the same punishments as are prescribed in the case of a contravention of the last preceding subsection.

(3) A person found committing an offence under this section may be arrested without warrant, and taken, together with the property which is the subject of the offence, before a Magistrate's Court; and any person to whom any property mentioned in subsection (1) of this section is offered to be sold, pawned, or delivered,

and who has reasonable cause to suppose that it is offered in contravention of this section, may, and, if he has the power, shall, arrest the person offering such property, and forthwith take him, together with such property, before a Magistrate's Court.

(4) A Magistrate's Court, if satisfied on the evidence on oath or affirmation of any person that there is reasonable cause to suspect that any other person has in his possession, or on his premises, any property with respect to which any offence in this section mentioned has been committed, may grant a warrant to search for such property, as in the case of stolen property; and the officer charged with the execution of such warrant shall seize any such property found on search of that other person or his premises and shall bring the person in whose possession such property is found before such court to be dealt with according to law.

(5) For the purposes of this section, property shall be deemed to be in the possession or keeping of a person if it is possessed or kept for him by any other person.

142. Every person, other than a person subject to this Act, who—

Unlawful possession of air-force certificates, &c.

- (a) receives or has in his possession any identity certificate, life certificate, or other certificate, or official document evidencing or issued in connexion with the right of any person to an air-force pension or pay, or to any bounty, allowance, gratuity, relief, benefit or advantage granted in connexion with air-force service, as a pledge or security for a debt or with a view to obtain payment from the person entitled thereto of a debt due either to the first-mentioned person or to any other person, or
- (b) without lawful authority or excuse (the proof whereof shall lie on the accused) has in his possession any such certificate or document, or any certificate of discharge or any other official document issued in

connexion with the mobilization or demobilization of the Air Force or any member thereof,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to the like punishments as for an offence under section 141.

Unauthorized use of decorations, &c.

143. Every person, other than a person subject to this Act, who—

- (a) without lawful authority uses or wears any air-force decoration or medal, or medal ribbon, or any badge, wound stripe, or emblem supplied or authorized by the President, or any imitation thereof which is calculated to deceive, or
- (b) falsely represents himself to be a person who is or has been entitled to use or wear any such decoration, medal, or medal ribbon, badge, wound stripe, or emblem, or
- (c) without lawful authority or excuse supplies or offers to supply any such decoration, medal, medal ribbon, badge, wound stripe, or emblem to any person not authorized to use or wear it,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees or to simple or rigorous imprisonment for a term not exceeding three months:

Provided that nothing in this section shall be deemed to prohibit the wearing or supply of any ordinary service badge or any brooch or ornament representing it by or to any person who is not a member of the unit to which the badge belongs.

Obligations of employers.

144. (1) It shall be the duty of every employer to give all proper facilities for enabling any person in his employ to become or to be a member of the Volunteer Air Force or the Volunteer Air Force Reserve and any such person who is a member of that force or reserve to undergo and render such air-force training and air-force service as he may be required to undergo and render by virtue of this Act.

(2) Any employer who—

- (a) fails to give the facilities referred to in subsection (I) of this section, or
- (b) by dismissing an employee or by reducing his wages or in any other manner penalizes him for undergoing or rendering any training or service referred to in that subsection,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred rupees, or to both such imprisonment and fine.

145. Where any person, other than a person subject to this Act,

Misconduct of civilian witness at court martial.

- (a) being duly summoned as a witness before a court martial and after payment or tender of the reasonable expenses of his attendance, makes default in attending the court martial, or
- (b) being in attendance as a witness before a court martial—
 - (i) refuses to take any oath or make any affirmation which he is lawfully required by the court martial to take or to make, or
 - (ii) refuses to produce any document, in his power or control, which he is lawfully required by the court martial to produce, or
 - (hi) refuses to answer any question which he is lawfully required by the court martial to answer,

he shall be deemed to commit an offence; and the president of the court martial may under his hand certify such offence of that person to the nearest civil court, and that court may thereupon deal with that person in like manner as if he had committed a like offence in that court.

False evidence by civilian witness at, and contempt of civilian towards, court martial.

146. (1) Where any person, other than a person subject to this Act, wilfully gives false evidence when examined on oath or affirmation before a court martial, he shall be deemed to commit the offence of giving false evidence under Chapter XI of the Penal Code and may be prosecuted and punished accordingly.

(2) Where any person, other than a person subject to this Act, uses insulting or threatening language about or towards a court martial, or causes any interruption or disturbance in its proceedings, or prints or publishes observations or utters words calculated to influence the members of or witnesses before a court martial or to bring a court martial into disrepute, he shall be deemed to commit the offence of contempt of that court martial; and the president of that court martial may under his hand certify such offence of that person to the Court of Appeal, and that court may thereupon deal with that person in like manner as if he had been charged with the offence of contempt committed against or in disrespect of the authority of that court.

Unauthorized training.

147. Where any person promotes or organizes or is a member of any association or body of persons who, without the permission of the President, are undergoing any training which will render them capable of being engaged in aerial warfare, he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to simple or rigorous imprisonment for a term not exceeding six months.

PART XVI

DESERTERS AND ABSENTEES
WITHOUT LEAVE

Inquiry into absence of airman.

148. When any airman has been absent without leave from his duty for a period of twenty-one days—

- (a) a court of inquiry may as soon as practicable be assembled, and inquire in the prescribed manner, on oath or affirmation which such court is hereby authorized to administer, respecting the fact of

the airman's absence, and the deficiency, if any, in the arms, ammunition, equipment, instruments, service necessaries or clothing of the airman, or in any public property issued to him for his use in connexion with his duties or entrusted to his care for air-force purposes; and

- (b) if satisfied of the fact of the airman's absence without leave or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any; and
- (c) the commanding officer of the absent airman shall enter in the service books a record of the declaration of such court; and
- (d) if the absent airman does not afterwards surrender or is not arrested such record shall have the legal effect of a conviction by a court martial for desertion.

149. (1) Where an airman signs a confession that he has been guilty of the air-force offence of desertion or of fraudulent enlistment, a competent air-force authority may by order dispense with his trial by a court martial and award the same forfeitures and the same deductions from pay as a court martial is empowered by this Act to award for such offence.

Confession by airman of desertion or fraudulent enlistment.

(2) If, in any case where an airman makes any confession referred to in subsection (1) of this section, evidence of the truth or falsehood of such confession cannot be conveniently obtained, a record of such confession, certified by the commanding officer of the airman shall be made in the service books, and the airman shall continue to do duty in the corps in which he may then be serving, or in any other corps to which he may be transferred, until he is discharged or transferred to the reserve, or until legal proof can be obtained of the truth or falsehood of such confession.

(3) For the purposes of this section, "competent air-force authority" means the President, or any such officer of a rank not below that of Group Captain as is authorized by the President.

Arrest of
deserters and
absentees
without leave.

150. The following provisions shall have effect with respect to deserters and absentees without leave;—

- (1) Upon reasonable suspicion that a person is a deserter or absentee without leave, it shall be lawful for any police officer, or if there is no police officer at hand, then for any officer or airman or other person, to arrest such suspected person and forthwith to bring him before a Magistrate's Court.
- (2) A Magistrate's Court, if satisfied by evidence on oath or affirmation that a deserter or absentee without leave is or is reasonably suspected to be within the jurisdiction of that court, may issue a warrant authorizing such deserter or absentee to be arrested and brought forthwith before that court.
- (3) Where a person is brought before a Magistrate's Court charged with being a deserter or absentee without leave under this Act, that court—
 - (a) if satisfied, either by independent evidence taken on oath or affirmation or by the confession of such person, that he is a deserter or absentee without leave, shall forthwith, as it may seem to that court most expedient with regard to his safe custody, cause him either to be delivered into air-force custody in such manner as that court may deem most expedient, or, until he can be so delivered, to be committed to some prison, police station, or other place legally provided for the confinement of persons in custody, for such time as appears to that court reasonably necessary for the purpose of delivering him into air-force custody, and
 - (b) where such person confesses himself to be a deserter or absentee without leave and

that court is not convinced of the truth of the confession, shall remand such person for the purpose of obtaining information as to the truth or falsehood of the confession, and for that purpose that court shall transmit to the Commander of the Air Force a return (in this Act referred to as a "descriptive return") in such form and containing such particulars as may be prescribed.

- (4) The court may, from time to time, remand the person referred to in subsection (3) of this section for a period not exceeding eight days in each instance.
- (5) Where under paragraph (3) (a) of this section a court causes a person either to be delivered into air-force custody or to be committed as a deserter or absentee without leave, the court shall send to the Commander of the Air Force a descriptive return in relation to such deserter or absentee without leave.
- (6) Where a person surrenders himself to a police officer as being a deserter or absentee without leave, the officer in charge of the police station to which he is brought shall forthwith inquire into the case, and, if it appears to him from the confession of that person that that person is a deserter or absentee without leave, may cause that person to be delivered into air-force custody without bringing him before a Magistrate's Court under this section, and in such case shall send to the Commander of the Air Force a certificate signed by himself as to the fact, date, and place of the surrender of that person.

PART XVII

IMPRISONMENT AND DETENTION

Committal, removal, release, &c., of air-force prisoner or airman undergoing detention.

151. (1) An order of the competent air-force authority shall be a sufficient warrant for the committal of an air-force prisoner to prison or detention barracks, or an airman under sentence of detention to detention barracks.

(2) An order of the competent air-force authority shall be a sufficient authority for the transfer of an air-force prisoner from prison to detention barracks, or vice versa, or from any prison or detention barracks to any other prison or detention barracks, or for the transfer of an airman undergoing detention from any detention barracks to any other detention barracks, or for the delivery into air-force custody of an air-force prisoner or an airman undergoing detention.

(3) An air-force prisoner or an airman undergoing detention may at any time, if his sentence is remitted, be released by order of the competent air-force authority.

(4) An air-force prisoner or an airman undergoing detention may, during his conveyance from place to place, or when on board ship or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.

(5) For the purposes of this section, "competent air-force authority" means the President or any such officer of a rank not below that of Group Captain as is authorized by the President.

Air-force prisoners in civil prisons.

152. (1) An air-force prisoner while in a civil prison shall be confined, kept to hard labour, and otherwise dealt with in the same manner as an ordinary prisoner under a like sentence of imprisonment.

(2) Where the hospital or place for reception of sick persons in any prison or detention barracks is detached from the prison or detention barracks, an air-force prisoner or an airman undergoing detention may be detained in that hospital or place, and conveyed to or from it as circumstances require.

153. (1) The superintendent of every prison in Sri Lanka shall receive and confine, until the time of discharge or delivery into any other lawful custody—

Duty of superintendent of any prison.

(a) all prisoners sent to such prison in pursuance of this Act, and

(b) every person delivered into his custody as a deserter or absentee without leave by any person conveying him under legal authority on production of the warrant of a Magistrate's Court on which such deserter or absentee without leave has been taken or committed,

(2) Every superintendent referred to in subsection (1) of this section shall also receive into his custody for a period not exceeding seven days any airman in air-force custody upon delivery to him of a written order purporting to be signed by the commanding officer of such airman.

(3) The provisions of this section with respect to the superintendent of a prison in Sri Lanka shall apply to a person having charge of any police station or other place in which prisoners may legally be confined.

154. (1) It shall be lawful for the Minister to set apart any building or part of a building under his control as an air-force prison or as detention barracks.

Establishment and regulation of air-force prisons and detention barracks.

(2) In any country in which operations against the enemy are being conducted, the powers of the Minister under subsection (1) of this section and the powers of the Minister to make regulations in respect of any of the matters mentioned in paragraphs (q), (r), (s) and (t) of subsection (1) of section 155 shall be exercised by the officer for the time being in command of the forces of Sri Lanka in the field, whether such officer is an air-force, military or naval officer, and the limitations contained in subsection (2) of section 155 on the power of making regulations as to the punishment of prisoners and airmen undergoing detention and as to the severity of imprisonment and detention shall not apply:

Provided that nothing in this subsection or in any regulations made thereunder shall

authorize flogging or other corporal punishment to be inflicted for any offence.

(3) The powers conferred by subsection (2) of this section shall continue to be exercisable after the cessation of operations so long as the forces in the country in question are on active service.

PART XVIII

MISCELLANEOUS

Regulations.

155. (1) Subject to the provisions of subsection (2) of this section, the Minister may make regulations in respect of all or any of the following matters :—

- (a) the uniforms to be worn by members of the Air Force ;
- (b) the training of members of the Air Force, and the duties which they may be ordered to perform when they are not on active service ;
- (c) the discipline of members of the Air Force ;
- (d) the disbandment of the whole or a part of any corps of the Air Force;
- (e) the termination of the services of any member of the Air Force;
- (f) the administration of the Air Force ;
- (g) the assembly and procedure of courts of inquiry;
- (h) the convening and constituting of courts martial;
- (i) the adjournment, dissolution, and sittings of courts martial;
- (j) the procedure to be observed in trials by courts martial;
- (k) the confirmation and revision of the findings and sentences of courts martial;
- (l) the carrying into effect of sentences of courts martial;
- (m) the forms of orders to be made under the provisions of this Act relating to courts martial, imprisonment, or detention;

- (n) any matter in this Act stated or required to be prescribed ;
- (o) any matter in respect of which regulations are authorized by any other provision of this Act;
- (p) any matter expedient or necessary for the purpose of carrying this Act into execution so far as relates to the investigation, trial, and punishment of air-force offences;
- (q) the government, management, and regulation of air-force prisons and detention barracks;
- (r) the appointment, removal, powers and duties of inspectors, visitors, superintendents and officers of air-force prisons and detention barracks;
- (s) the labour of prisoners in air-force prisons and of airmen undergoing detention in detention barracks, and the enabling of such prisoners or airmen to earn, by special industry and good conduct, a remission of portion of their sentence;
- (t) the safe custody of the aforesaid prisoners or airmen, the maintenance of discipline among them, the punishment by personal correction, restraint or otherwise of offences committed by them, and the temporary release of them in such cases, for such periods, and subject to such conditions, as may be prescribed.

(2) No regulation made in respect of the matters mentioned in paragraph (s) or paragraph (t) of subsection (1) of this section shall authorize corporal punishment to be inflicted for any offence, nor render the imprisonment or detention more severe than it is, under the law in force for the time being, in any civil prison.

(3) The regulations as to the procedure of courts of inquiry may provide for the taking of evidence on oath or affirmation and may empower such courts to administer oaths or affirmations for that purpose.

(4) The regulations as to the investigation of a charge may provide for the taking of a written summary of the

evidence on oath or affirmation, and may empower a commanding officer, or any other officer before whom he directs such summary to be taken, to administer oaths or affirmations for that purpose.

(5) Every regulation made by the Minister under this section shall be published in the Gazette and shall come into operation from the date on which it is so published.

(6) Every regulation made by the Minister under this section shall, as soon as practicable, be brought before Parliament by motion that such regulation shall be approved.

(7) Any regulation which Parliament refuses to approve shall be deemed to be rescinded but without prejudice to the validity of anything previously done thereunder or to the making of any new regulation. The date on which a regulation shall be so deemed to be rescinded shall be the date on which Parliament refuses to approve it.

(8) Notification of the date on which any regulation made by the Minister under this section is deemed to be rescinded shall be published in the Gazette.

Vesting of property of the Air Force in the Commander of the Air Force.

156. All property belonging to the Air Force or to any part of the Air Force, other than the property of individual members of the Air Force, and the exclusive right to sue for and recover moneys and other property due to the Air Force or to any part of the Air Force, shall vest in the Commander of the Air Force for the time being, with power for him to sue, to make contracts and conveyances, and to do all other lawful things relating to such property; and any civil or criminal proceedings taken by virtue of this section by the Commander of the Air Force shall not be discontinued and shall not abate by reason of his death, resignation, retirement, or removal from office, but may be carried on by and in the name of his successor in office.

Power as to restitution of stolen property.

157. (1) Where a person has been convicted by a court martial of the offence of committing theft or criminal breach of trust of any property, or of receiving any

property knowing it to be stolen property, and the property or any part thereof is found in the possession of that person, the authority confirming the conviction of, and the sentence passed on, that person by that court martial, or the Minister, may order the property so found to be restored to the person appearing to be the lawful owner thereof.

(2) Where any property found in the possession of any person referred to in subsection (1) of this section appears to the authority mentioned in that subsection or to the Minister to have been obtained by the conversion or exchange of any of the property referred to in that subsection, an order similar to an order under that subsection may be made by such authority or the Minister.

(3) Where it appears to the authority mentioned in subsection (1) of this section or to the Minister, from the evidence given before the court martial, that any part of the property referred to in that subsection was sold to or pawned with any person without any guilty knowledge on the part of that person, such authority or the Minister may, on the application of that person, and on the restitution of such property to the owner thereof, order that out of the money, if any, found in the possession of the offender, a sum not exceeding the amount of the proceeds of the sale or pawning shall be paid to that person.

(4) An order under this section shall not bar the right of any person, other than the offender or anyone claiming through him, to recover any property delivered in pursuance of such order from the person to whom it is so delivered.

(5) For the purposes of this section, "property" includes money.

158. Any power vested in, any report or other communication to be made to, and any act or thing to be done before, a person holding any air-force office may be exercised by, made to, or done before, any other person for the time being authorized in that behalf according to the custom of the Air Force or according to regulations made under section 155.

Exercise of powers vested in holder of air-force office.

Provisions as to warrants and orders of air-force authorities.

159. (1) Where any order is authorized by this Act to be made by the Minister, the Commander of the Air Force, or any other officer commanding, such order may be signified by an order under the hand of any officer authorized to issue orders on behalf of the Minister, or Commander of the Air Force, or other officer commanding, and an order purporting to be signed by any officer appearing therein to be so authorized shall be evidence of his being so authorized.

(2) Subsection (1) of this section shall extend to any order or direction issued in pursuance of this Act in relation to an air-force prisoner or airman undergoing detention, and any such order or direction shall not be held void by reason of the death or removal from office of the officer signing it or ordering its issue, or by reason of any defect in it, if it states that the prisoner or airman has been convicted-

(3) An order in any case if issued in the prescribed form shall be valid, but an order deviating from the prescribed form if otherwise valid shall not be rendered invalid by reason only of the deviation.

(4) Where any air-force prisoner or airman undergoing detention is for the time being in custody, whether air-force or civil, in any place or in any manner in which he might legally be kept in custody in pursuance of this Act, custody of such prisoner or airman shall not be deemed to be illegal only by reason of any informality or error in or as respects the order, warrant, or other document, or the authority by or in pursuance whereof such prisoner or airman was brought into or is detained in such custody, and any such order, warrant, or document may be amended accordingly.

(5) Where for the purpose of conveyance by sea, any person in air-force custody is delivered on board a ship to the person in command of the ship, the order of the air-force authority which authorizes the person in air-force custody to be conveyed by sea shall be a sufficient authority to the person in command of the ship to keep him in custody and convey him in accordance with the order, and the person kept in such custody shall be deemed to be in air-force custody.

160. (1) Where any member of any air force raised outside Sri Lanka is attached to the Air Force of Sri Lanka for duty and service with that Air Force he shall be subject to the provisions of this Act while he is so attached.

(2) Any member of any air force raised outside Sri Lanka may, at the request of the commanding officer of that force and with the consent of the Minister, be attached to the Air Force of Sri Lanka for exercise or training, and where such member is so attached, he shall be subject to the provisions of this Act save in respect of liability to be called out on active service.

161. In this Act unless the context otherwise requires—

" active service " means service rendered—

(a) in the defence of Sri Lanka in time of war whether actual or apprehended, or

(b) in the prevention or suppression of any rebellion, insurrection or other civil disturbance in Sri Lanka;

" airman " does not include an officer as defined by this Act, but, subject to the special provisions in this Act contained in relation to warrant officers and non-commissioned officers, does include a warrant officer and a non-commissioned officer;

"Air Force" means the Sri Lanka Air Force;

" air-force prison " means a prison for air-force prisoners;

"air-force prisoner" means a person under sentence of imprisonment passed by a court martial under this Act;

" civil court " means any court other than courts martial;

Members of any foreign air force attached to the Air Force of Sri Lanka.

Interpretation.

- " civil offence " means an offence against any law of Sri Lanka which is not an air-force offence;
- " civil prison " means any prison in which offenders sentenced to imprisonment by a civil court are confined ;
- " Minister " means the Minister in charge of the subject of Defence ;
- " non-commissioned officer " includes an acting non-commissioned officer, but does not include a warrant officer;
- " officer " means an officer commissioned as an officer of the Air Force ;
- " prescribed " means prescribed by regulation made under this Act; and
- " superior officer", in relation to an airman, includes a warrant officer and a non-commissioned officer.

CHAPTER 271

AGRICULTURAL INSURANCE

Law No. 27 of 1973, Act No. 55 of 1979.

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF A BOARD KNOWN AS THE AGRICULTURAL INSURANCE BOARD FOR UNDERTAKING THE BUSINESS OF AGRICULTURAL INSURANCE FOR SPECIFIED CROPS AND LIVESTOCK, TO REPEAL THE CROP INSURANCE ACT, NO. 13 OF 1961 ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[3 rd April. 1974.]

Short title.

1. This Law may be cited as the Agricultural Insurance Law.

3. (1) Every member shall, subject to the provisions of subsections (2) and (3) hold office for a period of three years from the date of his appointment: Members of the Board, &c. [\$3.55 of 1979.]

PART 1

ESTABLISHMENT OF THE AGRICULTURAL INSURANCE BOARD

Establishment and constitution of the Board. [§ 2, 55 of 1979.]

2. (1) There shall be established a Board which shall be called the Agricultural Insurance Board (hereinafter referred to as " the Board ").

Provided that a member appointed in place of a member who dies, resigns or otherwise vacates office, shall, unless he earlier resigns, dies or otherwise vacates office, hold office for the unexpired part of the term of office of the member whom he succeeds.

(2) The Board shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

(2) Any member may resign from the Board by letter addressed to the Minister.

(3) The Board shall consist of such number of members, being not less than three and not more than seven, as may be appointed by the Minister of whom—

(3) Any member may be removed from office by the Minister without assigning a reason and such removal shall not be called in question in any court of law nor shall such member be entitled to any compensation for any loss or damage suffered by him, by reason of such removal.

(a) one shall be an officer of the Insurance Corporation of Ceylon nominated by its Chairman;

(4) Where a member becomes by reason of illness or other infirmity or absence from Sri Lanka temporarily unable to perform the duties of his office, the Minister may appoint another person to act as member in his place.

(b) one shall be an officer of the People's Bank nominated by the Chairman of the Board of Directors of that Bank; and

(5) All members of the Board shall be remunerated in such manner and at such rates and shall be subject to such conditions of service as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(c) one shall be an officer of the Bank of Ceylon nominated by the Chairman of the Board of Directors of that Bank.

(4) The Minister shall appoint one of the members to be the Chairman of the Board.

(6) A member shall vacate office by death, removal, resignation or effluxion of time.

(7) Every member shall, unless he is removed from office, be eligible for reappointment.

(8) The quorum for the meetings of the Board shall be three members of the Board, and subject as aforesaid, the Board may regulate its own procedure.

(9) The Board may act notwithstanding any vacancy amongst its members.

General Control of the Board.

4. The general supervision, control, and administration of the affairs and the business of the Board shall be vested in the members of the Board.

Seal of the Board.

5. (1) The seal of the Board shall be in the custody of the Board.

(2) The seal of the Board may be altered in such manner as may be determined by the Board.

(3) The seal of the Board shall not be affixed to any instrument or document except in the presence of two members of the Board both of whom shall sign the instrument in token of their presence.

Powers of Minister in relation to the Board.

6. The Minister may give such general or special directions in writing as to the performance of the duties and the exercise of the powers of the Board and such Board shall give effect to such directions.

Staff of the Board.

7. (1) The Board may appoint to the staff of the Board such officers and servants as may be necessary for the efficient discharge of its functions.

(2) At the request of the Board, any officer in the public service may, with the consent of that officer and the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent or be permanently appointed to such staff.

(3) Where any officer in the public service is temporarily appointed to the staff of the Board, subsection (2) of section 9 of the

• Repealed by Law No. 19 of 1978.

Motor Transport Act, No. 48 of 1957,* shall, *mutatis mutandis*, apply to and in relation to him.

(4) Where any officer in the public service is permanently appointed to the staff of the Board, subsection (3) of section 9 of the Motor Transport Act, No. 48 of 1957,* shall, *mutatis mutandis*, apply to and in relation to him.

(5) Where the Board employs any person who has entered into a contract with the Government for a specified period, any period of service to the Board by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(6) All officers and servants of the Board shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

8. The Board shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Board deemed to be a scheduled institution within the meaning of the Bribery Act.

9. The general objects of the Board shall be-

General objects of the Board.

(a) to operate a comprehensive agricultural insurance scheme for the benefit of farmers in respect of the paddy crop, and of such other crops (hereinafter referred to as "specified crops"), as may be specified by the Minister by Notification published in the Gazette and in respect of livestock, which scheme will indemnify them against loss, provide a stabilizing effect on farm income, and promote agricultural production; and

(b) to undertake research necessary for the promotion and development of such agricultural insurance.

10. (1) The Board may exercise all or any of the following powers :—

Powers of the Board.

(a) to acquire, hold, take on lease or hire, mortgage, sell or otherwise dispose of any movable or immovable property,

- (b) to conduct, assist and encourage research into all aspects of the business of agricultural insurance ;
- (c) to enter into and perform, either directly or through any officer or agent authorized in that behalf, all such contracts as may be necessary for the performance of its duties and the exercise of its powers ;
- (d) to do anything for the purpose of advancing the skill of persons employed by the Board, and to provide facilities for training persons required to carry out the work of the Board ;
- (e) to authorize any member or officer of the Board or any public officer to perform such functions as the Board may consider necessary for the efficient transaction of its business;
- (f) to make rules in relation to its officers and servants including their appointment, promotion, remuneration, disciplinary control, conduct and grant of leave to them ;
- (g) to enter into joint schemes with any Government Department, public corporation, Agricultural Productivity Committee, set up under the Agricultural Productivity Law, No. 2 of 1972,* or any agent of such Committee, or any co-operative society set up under the Co-operative Societies Law for carrying out the objects of the Board;
- (h) to make rules in respect of the administration of the affairs of the Board;
- (i) to do all other things which in the opinion of the Board are necessary to facilitate the proper carrying on of its business.

(2) The Minister may by Order published in the Gazette authorize the Board, subject to such conditions as may be specified in the

Order, to carry on any undertaking or business or to do any act or thing not mentioned in the preceding provisions- of this section, if he is satisfied that it is expedient so to do for any purpose connected with the efficient discharge and performance of the powers and duties conferred or imposed on the Board by such preceding provisions.

(3) Every Order made under subsection (2) shall as soon as convenient after publication in the Gazette be brought before Parliament for approval. Any Order which is not so approved shall be deemed to be revoked as from the date of disapproval, but without prejudice to anything previously done thereunder. Every Order which is not so revoked shall be as valid and effectual as though it were herein enacted.

(4) Nothing in the preceding provisions of this section shall be construed as authorizing the disregard by the Board of any law for the time being in force.

PART II

COMPULSORY INSURANCE OF THE PADDY CROP

11. (1) Subject to the other provisions of this Law, every person having an interest in the paddy crop in any such area as may from time to time be determined for the purposes of this Part of this Law by the Minister by Order published in the Gazette, shall, with effect from such date as may be specified in such Order, be deemed to have entered into a contract of insurance with the Board against the loss of such crop arising from any such cause as may be specified in such Order (hereinafter referred to as a " specified cause ").

Compulsory insurance of the paddy crop.

(2) For the purposes of subsection (1), a person having an interest in the paddy crop shall mean an owner cultivator, a tenant cultivator, a landlord with tenant cultivators and a landlord with agricultural labourers, and any such person who is under subsection (1) deemed to have entered into a contract of insurance is hereinafter referred to as an " insured person ".

* Repealed by Act No. 58 of 1979 (Agrarian Services Act).

In this subsection, "owner cultivator", "tenant cultivator", "landlord" and "agricultural labourers" have the same meanings respectively as in the Paddy Lands Act, No. 1 of 1958.*

(3) The Board may, with the approval of the Minister by Order published in the Gazette, exclude from the provisions of this section, any area or extent of land where the risk of loss is considered excessive.

Determination and payment of premium.

12. (1) The Board shall determine, and may from time to time alter, the amount of the premium to be paid by insured persons.

(2) Where two or more insured persons have shares in the paddy crop, the premium payable by each such insured person shall be determined by the Chairman of the Board, having regard to the share to which each such insured person is entitled.

(3) Such premium may be paid in money or in a quantity of paddy the value of which is equal to the amount of the premium, such value being computed according to the price for the time being of paddy under the Guaranteed Price Scheme, if that Scheme applies to such crop or, if that Scheme does not apply to such crop, according to such average of the market prices of such crop during the three years immediately preceding the year in which the premium is payable, as may be determined by the Board.

(4) Where the Guaranteed Price Scheme applies to the paddy crop, it shall be lawful for the Paddy Marketing Board or its authorized purchasers, at the request of the Agricultural Insurance Board, to deduct from the amount payable to the insured person as the price of any quantity of that crop purchased from him under that Scheme by the Paddy Marketing Board or its authorized purchasers, as the case may be, the amount of the premium payable to the Agricultural Insurance Board by the insured person under this Law.

(5) If an insured person who is liable to pay any sum as the whole or part of a premium fails to pay that sum within the time allowed by the Board, that sum shall be deemed to be in default and, together with an additional charge by way of interest

* Repealed by Agricultural Lands Law, No. 42 of 1973, itself repealed by the Agrarian Services Act.

at such rate as may be determined by the Minister by Notification published in the Gazette, shall be recovered on application made to the Primary Court having jurisdiction over the place where the extent of paddy land the premium in respect of which is in default is situated or where there is no Primary Court having jurisdiction over that place to a Magistrate's Court having jurisdiction over that place, by an officer authorized in that behalf by the Board in like manner as a fine imposed by such Court, and for the purposes of such recovery, the produce from the extent of land in respect of which such premium is payable shall be liable to seizure and sale.

(6) For the purpose of subsection (5), a certificate under the hand of the officer authorized in that behalf by the Board to the effect that the sum specified therein is due to the Board from the insured person shall be conclusive proof that such sum is due to the Board from such person.

13. Where, due to any specified cause, there is a loss of the paddy crop in an extent of land, the insured person shall, within seven days of the occurrence of such loss, prefer a written claim to indemnity in respect of such loss to the agent appointed by the Board within whose area of jurisdiction such extent of land is situated. Loss claim.

14. (1) The computation of the amount of indemnity payable in respect of the loss of the paddy crop shall be made according to such terms and conditions as shall be specified by the Minister by Order published in the Gazette. Award of indemnity.

(2) Any sum due to an approved credit agency which has granted loans to an insured person for the purpose of paying the premium may be deducted from the amount of the indemnity payable to such insured person.

15. (1) Where an officer authorized in that behalf by the Board rejects a claim to indemnity made by an insured person or where an insured person is dissatisfied with the amount of the indemnity awarded to him by any such officer, such insured person may, within thirty days of the Appeals against rejection of claims to indemnity, &c.

notification to him of the rejection or of the award of the indemnity, as the case may be, make a written appeal to the Board, stating the grounds of appeal.

(2) The decision of the Board on any appeal under this section shall be final and conclusive and shall not be called in question in any court.

Maximum insurance liability.

16. (1) For the purposes of this Part of this Law, where the amount of indemnities payable in respect of any season does not exceed fifteen *per centum* of the total insurance liability, such amount shall be paid out of the Agricultural Insurance Fund.

Where such amount exceeds the aforesaid fifteen *per centum*, the part of such amount which is equal to such fifteen *per centum* shall be paid out of the Agricultural Insurance Fund and the balance of such amount shall be paid out of moneys provided for the purpose by the Government.

(2) In this section, "total insurance liability" means the amount obtained by multiplying the total insured acreage of land cultivated with paddy in any cultivation season, by the maximum indemnity payable.

PART III

VOLUNTARY INSURANCE OF OTHER CROPS AND LIVESTOCK

Minister to determine the crops and species of livestock for voluntary insurance.

17. The Minister may, from time to time, by Order published in the Gazette, determine the crop or crops and the species of livestock in respect of which voluntary insurance shall be provided by the Board.

Insurance policy.

18. The Board shall, subject to such terms and conditions as may be prescribed, issue to every person who applies to insure any crop or species of livestock under this Part of this Law an insurance policy containing—

- (a) the name of the insured ;
- (b) the subject-matter of insurance ;
- (c) the sum insured ;

- (d) the term of cover;
- (e) the causes of loss insured ; and
- (f) such terms, exceptions, conditions and endorsements as may be determined by the Board.

19. For the purposes of this Part of this Law, the Board may, with the approval *oi* the Minister, enter into reinsurance contracts with the Government or any local or foreign institution undertaking the business of reinsurance. Reinsurance.

PART IV

FINANCE

20. (1) The initial capital of the Board shall be two million rupees. Capital of the Board.

(2) The initial capital of the Board may be increased from time to time by such amount as may be determined by the Minister with the approval of the Minister in charge of the subject of Finance.

(3) The amount of the initial capital of the Board and the amount of any increase of such capital referred to in subsection (2) shall be paid to the Board out of the Consolidated Fund in such instalments as the Minister in charge of the subject of Finance may, in consultation with the Minister, determine.

(4) As soon as possible after a payment out of the Consolidated Fund has been made towards the initial capital of the Board or towards its increase, the Minister in charge of the subject of Finance shall lay a statement of such payment before Parliament.

21. (1) There shall be established an Agricultural Insurance Fund (hereinafter referred to as " the Fund "). Fund of the Board.

- (2) There shall be paid into the Fund—
 - (a) all such sums as may be voted from time to time by Parliament for the use of the Board ;

(b) all such moneys received by the Board in the exercise, discharge and performance of the powers, functions and duties under this Law;

(c) all sums of money lying to the credit of the Insurance Fund established under the Crop Insurance Act, No. 13 of 1961.*

(3) There shall be paid out of the Fund all sums of money required to defray any expenditure incurred by the Board in the exercise, discharge and performance of its powers, functions and duties under this Law, and all such sums of money as are required to be paid out of such Fund by or under this Law.

Expenses of administration.

22. The remuneration and allowances payable to the members of the Board and all other expenses incurred in the administration of this Law shall be paid out of moneys provided by Parliament for the purpose.

Borrowing powers of the Board.

23. (1) The Board may, with the concurrence of both the Minister, and the Minister in charge of the subject of Finance, or in accordance with the terms of any general authority given with like concurrence, borrow, by way of overdraft or otherwise, or negotiate and obtain on credit terms, such sums as the Board may require for meeting the obligations of the Board or carrying out its object:

Provided that the aggregate of the amounts outstanding in respect of any loans raised by the Board under this subsection shall not at any time exceed such sum as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(2) The Board may, with the consent of the Minister given with the concurrence of the Minister in charge of the subject of Finance, borrow money otherwise than by way of loan under subsection (1) for all or any of the following purposes :—

(a) the requisition or acquisition of any movable or immovable property required for the business of the Board;

(b) the repayment of any money borrowed under subsection (1).

24. Any funds of the Board which are not immediately required for the purpose of the business of the Board may be applied by the Board to any such purpose connected with agricultural development as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Investment of funds of the

25. The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of the Board.

Application of provisions of the Public Corporations (Financial Control) Act.

PART V

GENERAL

26. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law.

Regulations.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of all matters which are stated or required by this Law to be prescribed or for which regulations are required by this Law to be made,

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette.

27. (1) No suit or prosecution shall lie—

Protection for action taken under this Law or on direction of the Board.

(a) against the Board for any act which in good faith is done or purported to be done by the Board under this Law; or

* Repealed by the Agricultural Insurance Law.

(b) against any member, officer, servant or agent of the Board for any act which in good faith is done or purported to be done by him under this Law or on the direction of the Board.

(2) Any expense incurred by such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done by him under this Law or on the direction of the Board shall, if the court holds that the act was done in good faith, be paid out of the Fund.

Offences.

28. (1) Every person who contravenes or fails to comply with any provisions of this Law or any regulation made thereunder or any order or direction lawfully given under this Law shall be guilty of an offence under this Law.

(2) Every person who commits an offence under this Law shall on conviction after summary trial before a Magistrate be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand rupees or to both such fine and imprisonment.

(3) Notwithstanding anything to the contrary in the First Schedule to the Code of Criminal Procedure Act, every offence under this Law, shall be a cognizable offence within the meaning of that Act.

(4) Where any offence under this Law is committed by a body corporate every person who at the time of the commission of the offence was a member, general manager, secretary, or other similar officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised in the circumstances having regard to the nature of the offence.

This Law to prevail over other written law.

29. The provisions of this Law shall have effect notwithstanding anything contrary in any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this

Law and such other law, the provisions of this Law shall prevail.

30. (1) Where any immovable property of the Republic is required for the purpose of the business of the Board, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the State Lands Ordinance, and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property to the Board.

Property of the Republic both immovable and movable to be made available to the Board and acquisition of immovable property under the Land Acquisition Act, for the Board.

(2) Where any movable property of the State is required for the purpose of the business of the Board, the Minister may by Order published in the Gazette transfer to and vest in the Board the possession and use of such movable property.

(3) Where any immovable property is required to be acquired for the purpose of the business of the Board, and the Minister, by Order published in the Gazette, approves of the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired compulsorily under the Land Acquisition Act and be transferred to the Board.

(4) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act for the Board shall be paid by the Board.

31. Where any person to whom any indemnity payable under this Law dies before receiving such indemnity, the Board shall pay such indemnity to the District Court or Primary Court within whose local jurisdiction the land to which such indemnity relates is wholly or mainly situated, according as such indemnity exceeds or does not exceed one thousand five hundred rupees, to be drawn by the persons entitled thereto.

Payment of indemnity on death of person entitled thereto.

32. The holder or holders of an insurance policy issued under this Law may assign such policy to an approved credit agency as security for a loan given by such agency to such holder or holders for any purpose connected with the raising of any specified crop on the extent of land to which such policy relates.

Assignment of policy by way of security for loan.

Prohibition of seizure or sequestration of indemnity due to any person.

33. No sum due to any person as indemnity under this Law shall be seized or sequestered in execution of a decree or an order of any court, other than a decree or an order for the payment of a sum of money to the State or to any approved credit agency, notwithstanding anything to the contrary in any other written law.

Deductions from indemnity.

34. Where any person is entitled to any indemnity payable under this Law and the Board is satisfied that any sum is due from that person to an approved credit agency in repayment of the whole or any part of a loan granted by such agency to that person or in payment of any interest on that loan, the Board may cause the sum due to such approved credit agency to be deducted from the amount of such indemnity and to be remitted to such agency.

Effect of transfer of interest to which an insurance policy relates.

35. Where the right, title and interest of an insured person is transferred to any other person, the transferee shall be entitled to all the rights of the transferor and shall, from the date of the transfer, be subject to all the outstanding obligations of the transferor.

Avoidance of insurance.

36. The contract of insurance under this Law may be declared void, and the premium paid in respect of such contract may be forfeited, by the Board if the insured—

- (a) has concealed or misrepresented any material fact or committed any fraud relating to the insurance, or
- (b) fails to comply with any term or condition of such contract.

Payment of premium in kind.

37. (1) The amount of any premium under a contract of insurance under this Law shall be paid in cash or in the specified crop to which that contract relates or partly in cash and partly in that specified crop.

(2) The Board may, as often as it is necessary, sell any part of the Fund which consists of specified crops, and shall credit to such Fund the proceeds of the sale after deducting therefrom the expenses incurred in the sale.

38. (1) The Board or any officer authorized in that behalf by the Board may enter and inspect any land on which there is any specified crop or any insured livestock and any documents relating thereto and it shall be the duty of every person who is in occupation of such land to permit and assist such inspection.

Power of inspection of lands in which specified crops are raised.

(2) Every person who fails to comply with the provisions of subsection (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees.

39. The Board or any officer authorized in that behalf by the Board may direct an insured person or the holder of an insurance policy under this Law to take such measures in respect of the crop or livestock as may be necessary to prevent or minimize damage to such crop or livestock.

Power to direct an insured person to take measures to prevent damage to insured land.

40. (1) The Crop Insurance Act, No. 13 of 1961, is hereby repealed.

Repeal of Crop Insurance Act, No. 13 of 1961.

(2) Notwithstanding the repeal of the Crop Insurance Act, No. 13 of 1961, all liabilities by way of premium payments by insured persons pending and payable under the provisions of that Act, shall, on the date of commencement of this Law, be deemed to be payable to the Board.

41. In this Law—

Interpretation.

" approved credit agency " means any co-operative society or other institution for the time being declared by the Board by notification published in the Gazette to be an approved credit agency for the purposes of this Law; and

" public corporation " means any corporation, board or other body which was or is established by or under any written law, other than the Companies Ordinance,* with capital wholly or partly provided by the Government by way of grant, loan or other form.

* Repealed and replaced by the Companies Act, No. 17 of 1982.

CHAPTER 439

AMERICAN MISSION

Ordinance
No. 4 of 1908.

AN ORDINANCE TO INCORPORATE THE AMERICAN CEYLON MISSION.

[22nd September, 1908.]

Short title.

1. This Ordinance may be cited as the American Ceylon Mission Ordinance.

3. All property, both movable and immovable, already acquired, held, or possessed by the American Ceylon Mission, or by any person as treasurer of the said mission, shall vest in the American Ceylon Mission as hereby incorporated.

Vesting of property of mission.

Incorporation of officers of mission.

2. (1) Miss Susan Reed Howland, President, (2) The Reverend James Henry Dickson, Treasurer, and (3) The Reverend Thomas Beckett Scott, Secretary, and their successors duly appointed according to the rules and regulations made by the American Board of Commissioners for Foreign Missions under the Act of Incorporation of the said board of the year eighteen hundred and twelve, and the Acts amending the same in the Commonwealth of Massachusetts, in the United States of America, are hereby associated together and shall for ever hereafter be and be called a body corporate in deed and in law by the name and style of "The American Ceylon Mission", and by that name shall have perpetual succession and full power to acquire, purchase, take, hold, and enjoy movable and immovable property of every description, and to sell or otherwise dispose of the same, and by that name the corporation hereby constituted may sue and be sued in all Courts of Justice.

4. All leases and all rights and claims held, granted to, or acquired by the American Ceylon Mission, or by any person or persons for mission purposes, shall vest in the American Ceylon Mission as hereby incorporated.

Vesting of leases, rights, &c.

5. Where any action or proceeding is pending at any time in any court in Ceylon when this Ordinance comes into force in which any person acting as treasurer of the mission is a plaintiff, petitioner, defendant, or respondent or intervenient, such action may be continued by or against the American Ceylon Mission.

Pending legal proceedings to which treasurer is party.

6. The American Ceylon Mission as hereby incorporated shall have an official seal which shall be officially and judicially noticed, and that seal shall be authenticated by the signature of the treasurer or by some person temporarily acting as treasurer of the mission.

Official seal.

CHAPTER 76

ADOPTION OF CHILDREN

Ordinances AN ORDINANCE TO PROVIDE FOR THE ADOPTION OF CHILDREN, FOR THE REGISTRATION
Nos. 24 of 1941, AS CUSTODIANS OF PERSONS HAVING THE CARE, CUSTODY OR CONTROL OF
54 of 1943, CHILDREN OF WHOM THEY ARE NOT THE NATURAL PARENTS, AND FOR MATTERS
Act CONNECTED WITH THE MATTERS AFORESAID.
No. 1 of 1964;

Law
No. 6 of 1977.

Act
No. 38 of 1979.

[1st February, 1944.]

Short title. **1.** This Ordinance may be cited as the
Adoption of Children Ordinance.

(i) a direct descendant of the applicant;
or

PART I

ADOPTION OF CHILDREN

Power to
make
adoption
orders.

2. (1) Any person desirous of being
authorized to adopt a child may make
application to the court in the manner
provided by rules made under section 13,
and upon such application being made, the
court may, subject to the provisions of this
Part, make an order (hereinafter referred to
as an "adoption order") authorizing that
person to adopt the child.

(ii) a brother or sister of the applicant by
the full or the half-blood or a
descendant of any such brother or
sister; or

(iii) the child of the wife or husband, as
the case may be, of the applicant by
another father or mother,

the court may, if it thinks fit make an
adoption order, notwithstanding that the
applicant is less than twenty-one years older
than the child.

(2) No adoption order shall be made
authorizing two or more persons to adopt a
child:

(2) An adoption order shall not be made
in any case where the sole applicant is a
male and the child in respect of whom the
application is made is a female, unless the
court is satisfied that there are special
circumstances which justify the making of
an adoption order.

Provided, however, that the court may,
on application made in that behalf by two
spouses jointly, make an adoption order
authorizing the two spouses jointly to adopt
a child.

(3) An adoption order shall not be made
except with the consent of every person or
body who is a parent or guardian of the
child in respect of whom the application is
made, or who has the actual custody of the
child, or who is liable to contribute to the
support of the child :

Restrictions
on making
of adoption
orders.

3. (1) An adoption order shall not be
made in any case where—

(a) the applicant is under the age of
twenty-five years, or

(b) the applicant is less than twenty-one
years older than the child in respect
of whom the application is made:

Provided, however, that where the child
in respect of whom an application is made
is—

Provided that the court may dispense
with any consent required by the preceding
provisions of this subsection if satisfied that
the person whose consent is to be dispensed
with has abandoned or deserted the child or
cannot be found or has been adjudged by a

competent court to be of unsound mind, or, being a person liable to contribute to the support of the child, either has persistently neglected or refused to contribute to such support or is a person whose consent ought, in the opinion of the court and in all the circumstances of the case, to be dispensed with.

A man who marries a woman having a child (whether legitimate or illegitimate) at the time of the marriage shall be deemed for the purposes of this subsection to be a person liable to contribute to the support of the child.

(4) An adoption order shall not be made upon the application of one of two spouses without the consent of the other of them:

Provided that the court may dispense with any consent required by the preceding provisions of this subsection if satisfied that the person whose consent is to be dispensed with cannot be found or has been adjudged by a competent court to be of unsound mind, or that the spouses have been judicially separated by a decree of a competent court.

(5) An adoption order shall not be made in respect of a child over the age of ten years except with the consent of such child.

(6) An adoption order shall not be made in favour of any applicant who is not resident and domiciled in Sri Lanka or in respect of any child who is not so resident:

Provided that an adoption order may be made on a joint application of two spouses who are not resident and domiciled in Sri Lanka where, after calling for, and considering, a report from the Commissioner of Probation and Child Care Services on the social and psychological aspects of the adoption to be authorized and on the matters specified in section 4, the court is satisfied that there are special circumstances that justify the making of an adoption order in favour of the joint applicants. The Commissioner shall submit such report to court within the period fixed by court for that purpose, such period being not less than fourteen days and not more than twenty-eight days from the date on

which the court calls for the report, and shall annex to such report a home-study report in respect of the applicants from an institution recognized by the country of the applicants and authenticated by the accredited representative for the Republic of Sri Lanka in that country.

In this subsection a " home-study report" means a report on the mental health of the applicants, on their social, religious and financial background and on their suitability to adopt a child.

4. The court before making an adoption order shall be satisfied—

(a) that every person whose consent is necessary under this Part and whose consent is not dispensed with has consented to, and understands the nature and effect of, the adoption order for which application is made, and in particular in the case of any parent, understands that the effect of the adoption order will be permanently to deprive him or her of his or her Tier parental rights; and

(b) that the order, if made, will be for the welfare of the child, due consideration being for this purpose given to the wishes of the child, having regard to the age and understanding of the child ; and

(c) that the applicant has not received or agreed to receive, and that no person has made or given or agreed to make or give to the applicant, any payment or other reward in consideration of the adoption except such as the court may sanction.

5. The court in an adoption order may impose such terms and conditions as the court may think fit and in particular may require the adopter by bond or otherwise to make for the adopted child such provision, if any, as in the opinion of the court is just and expedient.

6. (1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parent or parents, guardian order

Matters with respect to which court must be satisfied.

Terms and conditions of adoption order.

[§2.38 of 1979-]

ADOPTION OF CHILDREN

or guardians of the adopted child in relation to the future custody, maintenance and education of the adopted child including all rights to appoint a guardian or to consent to the marriage of the child, or to give notice forbidding the issue of a certificate for the solemnization of such marriage shall be extinguished; and all such rights, duties, obligations and liabilities shall vest in and be exercisable by and enforceable against the adopter as though the adopted child was a child born to the adopter in lawful wedlock, and in respect of the same matters and in respect of the liability of a child to maintain its parents the adopted child shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock:

Provided that in any case where two spouses are the adopters such spouses shall, in respect of the matters aforesaid and for the purpose of the jurisdiction of any court to make orders as to the custody and maintenance of and right of access to children, stand to each other and to the adopted child in the same relation as they would have stood, if they had been the lawful father and mother of the adopted child, and the adopted child shall stand to them respectively in the same relation as a child would have stood to a lawful father and mother respectively.

(2) The court which makes an adoption order in respect of any child shall, unless in its discretion it considers it inexpedient so to do, by that order confer on the child the surname or family name of the adopter or such other name as would, having regard to the customs of the community to which the adopter belongs, be conferred on a child born in lawful wedlock of the adopter.

(3) Upon an adoption order being made, the adopted child shall for all purposes whatsoever be deemed in law to be the child born in lawful wedlock of the adopter;

Provided, however, that unless the contrary intention clearly appears from any instrument (whether such instrument takes effect *inter vivos* or *mortis causa*), such adopted child shall not by such adoption—

(d) acquire any right, title or interest in any property—

(i) devolving on 'any child of the adopter by virtue of any instrument executed prior to the date of the adoption order; or

(ii) devolving on the heirs *ab intestato* of any child born in lawful wedlock of the adopter;

(b) become entitled to any succession (whether by will or *ab intestato*) *jure representationis* the adopter.

(4) An adoption order shall not deprive the adopted child of any right to or interest in any property to which, but for the order, the child would have been entitled under any intestacy or disposition whether occurring or made before or after the date of the adoption order.

(5) Upon the death intestate of any person in respect of whom an adoption order has been made, neither the adopter nor any person claiming through or under him shall, by reason of the adoption, acquire any right to succeed to the estate or any part of the estate of the person adopted,;

Provided, however, that where any part of the estate consists of immovable property which had accrued to or devolved on the adopted person by reason of his having been deemed in law to be the child born in lawful wedlock of the adopter, or which had been transferred to him by way of gift by the adopter or by any ascendant or descendant or brother or sister of the adopter, the adopter and persons claiming under him shall, notwithstanding anything in any written or other law to the contrary, be entitled to succeed to that immovable property in like manner as though the person adopted were the child born in lawful wedlock of the adopter.

7. (1) Upon any application for an Power to adoption order the court may postpone the determination of' the application and' may make an *interim* order (which shall not be an adoption order for the purposes of this Part) giving the custody of the child to the applicant for a period not exceeding two years by way of a probationary period upon such terms as regards provision for the make interim orders.

ADOPTION OF CHILDREN

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maintenance and education and supervision of the welfare of the child and otherwise as the court may think fit.

(2) All such consents as are required to an adoption order shall be necessary to an *interim* order, but subject to a like power on the part of the court to dispense with any such consent.

Provisions
as to existing
de facto
adoptions.

8. Where at the appointed date any child is in the custody of and being brought up, maintained and educated by any person or two spouses jointly as his, her or their own child under any *de facto* adoption and has for a period of not less than two years before that date been in such custody and been so brought up, maintained and educated, the court may upon the application of such person or spouses and notwithstanding that the applicant is a male and the child a female, make an adoption order authorizing him, her or them to adopt the child without requiring the consent of any parent or guardian of the child to be obtained, upon being satisfied that in all the circumstances of the case it is just and equitable and for the welfare of the child that no such consent should be required and that an adoption order should be made.

Power to
make
subsequent
orders in
respect of
children
already
adopted.

9. An adoption order or an *interim* order may be made in respect of a child who has already been the subject of an adoption order and, upon any application for such further adoption order, the adopter or adopters under the adoption order last previously made shall, if living, be deemed to be the parent or parents of the child for all the purposes of this Ordinance.

Adoption
Register.

10. (1) The Registrar-General shall establish and maintain at his office a register to be called the Adoption Register, together with an index thereof, and shall make or cause to be made, made in that register such entries as may be directed to be made therein by adoption orders.

(2) The court which makes any adoption order shall in that order direct the Registrar-General to make in the Adoption Register an entry recording the adoption in the form set out in the Schedule to this Ordinance.

(3) Where, upon any application for an adoption order in respect of any child, the date of the birth of that child and the identity of that child with a child to whom any entry or entries in any register of births kept under the Births and Deaths Registration Act relates, is proved to the satisfaction of the court, the court shall if the adoption order is made, in that order direct the Registrar-General—

(a) to cause such birth entry or entries in the register of births to be marked with the word " Adopted "; and

(b) to include in the entry made under subsection (2) in the Adoption Register in respect of that order, the date of the birth of the child as specified in the order.

(4) Every court which makes an adoption order shall cause the adoption order to be communicated to the Registrar-General, and upon receipt of such communication the Registrar-General shall cause compliance to be made with the directions contained in such order in regard both to marking any entry in the registers of births with the word " Adopted " and in regard to making the appropriate entry in the Adoption Register, and the Registrar-General or an officer authorized by him in that behalf shall authenticate such marking of any entry in the register of births. [§3, Law 6 of 1977]

(5) (a) Where after an entry has been made in the Adoption Register in accordance with the directions of an adoption order, the name of the adopted child or the name or the names of the adopters of that child has or have been altered, the adopted child, if over the age of twenty-one years, or the adopter or adopters may make a written application to the Registrar-General in the prescribed form for an order directing the alteration of the particulars in the register relating to the name of the adopted child, the name or names of the adopters, as the case may be. [§3, Law 6 of 1977]

(b) On an application made under paragraph (a), the Registrar-General may after inquiry held by him or by an officer authorized by him in that behalf, direct the alteration of the particulars of the entry in

the Adoption Register in terms of the application and accordingly shall make or cause such alteration to be made.

(c) The Registrar-General or any officer authorized by him in that behalf may correct any clerical error which may at any time be discovered in any entry made in the Adoption Register.

(d) Where the Registrar-General is satisfied on a written declaration made to him in the prescribed form by an adopted child, if over the age of twenty-one years, or the adopter or adopters of that child that there is any error in any particulars in an entry in the Adoption Register relating to any matter of fact or substance, in respect of such adopted child, the Registrar-General or any officer authorized by him in that behalf may cause the error to be corrected by any entry made under his hand in the margin of the register.

(6) A certified copy of any entry in the Adoption Register if purporting to be made under the hand of the Registrar-General or any Assistant Registrar-General shall—

(a) where the entry does not contain any record of the date of the birth of the adopted child, be received as prima facie evidence of the adoption to which the same relates ; and

(b) where the entry contains a record of the date of the birth of the adopted child, be received as prima facie evidence not only of the adoption to which the same relates but also of the date of the birth of the adopted child to which the same relates in all respects as though such copy were a certified copy purporting to be made under the hand of the Registrar-General, of an entry in a register of births.

10A. (1) Every court empowered to make an adoption order shall cause to be transmitted to the Registrar-General a return (hereinafter referred to as the "quarterly return"), of all adoption orders made by that court during each period of three months.

(2) The first quarterly return of any year shall be for the period commencing on the first day of January of that year and the remaining quarterly returns for that year shall be for the periods commencing on the first day of April, July and October of that year and the quarterly return for any such period shall be transmitted to the Registrar-General not later than fifteen days after the expiration of that period.

(3) Every such return shall contain the following particulars:—

(a) the name of the court;

(b) the number and the date of each application in which an adoption order has been made;

(c) the name of the adopter or the names of- the joint adopters in each such adoption order;

(d) the name of the adopted child in each such adoption order; and

(e) the date on which each such adoption order was communicated to the Registrar-General.

(4) If no adoption order has been made by any such court during any period for which a quarterly return has to be transmitted, such court shall transmit to the Registrar-General a nil return for that period not later than fifteen days after the expiration of that period.

10B. (1) Where a court makes an adoption order authorizing two spouses jointly to adopt a child (whether such adoption order has been made before or after the coming into operation of this section) such spouses may, notwithstanding the fact that the birth of that child has been previously registered under the Births and Deaths Registration Act, make a written declaration in the prescribed form to the Registrar-General for the re-registration of the birth of that child by the insertion of the names of such spouses as the natural parents of that child. Every such declaration shall bear a stamp to the value of five rupees.

Re-regisraiiion of the birth of an adopted child [§4 Law 6 of 1977.]

Quarterly return. [§4, Law 6 of 1977.]

the Adoption Register in terms of the application and accordingly shall make or cause such alteration to be made.

(c) The Registrar-General or any officer authorized by him in that behalf may correct any clerical error which may at any time be discovered in any entry made in the Adoption Register.

(d) Where the Registrar-General is satisfied on a written declaration made to him in the prescribed form by an adopted child, if over the age of twenty-one years, or the adopter or adopters of that child that there is any error in any particulars in an entry in the Adoption Register relating to any matter of fact or substance, in respect of such adopted child, the Registrar-General or any officer authorized by him in that behalf may cause the error to be corrected by any entry made under his hand in the margin of the register.

(6) A certified copy of any entry in the Adoption Register if purporting to be made under the hand of the Registrar-General or any Assistant Registrar-General shall—

- (a) where the entry does not contain any record of the date of the birth of the adopted child, be received as prima facie evidence of the adoption to which the same relates ; and
- (b) where the entry contains a record of the date of the birth of the adopted child, be received as prima facie evidence not only of the adoption to which the same relates but also of the date of the birth of the adopted child to which the same relates in all respects as though such copy were a certified copy purporting to be made under the hand of the Registrar-General, of an entry in a register of births.

10A. (1) Every court empowered to make an adoption order shall cause to be transmitted to the Registrar-General a return (hereinafter referred to as the "quarterly return"), of all adoption orders made by that court during each period of three months.

(2) The first quarterly return of any year shall be for the period commencing on the first day of January of that year and the remaining quarterly returns for that year shall be for the periods commencing on the first day of April, July and October of that year and the quarterly return for any such period shall be transmitted to the Registrar-General not later than fifteen days after the expiration of that period.

(3) Every such return shall contain the following particulars:—

- (a) the name of the court;
- (b) the number and the date of each application in which an adoption order has been made;
- (c) the name of the adopter or the names of- the joint adopters in each such adoption order;
- (d) the name of the adopted child in each such adoption order; and
- (e) the date on which each such adoption order was communicated to the Registrar-General.

(4) If no adoption order has been made by any such court during any period for which a quarterly return has to be transmitted, such court shall transmit to the Registrar-General a nil return for that period not later than fifteen days after the expiration of that period.

10B. (1) Where a court makes an adoption order authorizing two spouses jointly to adopt a child (whether such adoption order has been made before or after the coming into operation of this section) such spouses may, notwithstanding the fact that the birth of that child has been previously registered under the Births and Deaths Registration Act, make a written declaration in the prescribed form to the Registrar-General for the re-registration of the birth of that child by the insertion of the names of such spouses as the natural parents of that child. Every such declaration shall bear a stamp to the value of five rupees.

Re-registration of the birth of an adopted child [§4,law 6 of 1977]

Quarterly return. [§4, Law 6 of 1977.]

(2) On receipt of a declaration under subsection (1), the Registrar-General shall, if he is satisfied that the declarants have been authorized by a court to adopt the child in respect of whom such declaration has been made, cause that birth to be re-registered in the manner prescribed.

(3) The provisions of sections 27, 27A, 28, 52, 56 and 57 of the Births and Deaths Registration Act, shall apply to a birth re-registered under subsection (2) in like manner as they apply to a birth registered under the Births and Deaths Registration Act.

(4) Where the birth of an adopted child has been re-registered in accordance with the preceding provisions of this section, the Registrar-General shall cause the relevant entry in the Adoption Register in respect of that child to be marked with the words "Birth Re-registered" and, such other particulars relating to the re-registration of that birth as may be prescribed.

11. (1) The Adoption Register and the index kept under section 10 shall not be open for public inspection or search.

(2) The Registrar-General may, in the case of an adopted child whose birth has not been re-registered under this Ordinance, furnish any person with any information contained in the Adoption Register and the index kept under section 10 or with any copy of or extract from any such register or index and, in the case, of an adopted child, whose birth has been re-registered under this Ordinance, the Registrar-General shall not furnish any such information, copy or extract except under an order of court.

(3) The provisions of section 56 of the Births and Deaths Registration Act relating to the demand and issue of certified copies or certified extracts of entries and to the stamps to be supplied in respect of such copies or extracts shall apply to the demand, issue and stamping of certified copies or certified extracts under subsection (2), as if the Adoption Register and the index kept under section 10 were books kept by the Registrar-General under the Births and Deaths Registration Act.

12. The Registrar-General shall, in Books. &c. addition to the Adoption Register and the index thereof, keep such other books and registers and make such entries therein as may be necessary to record and make traceable the connexion between any entry in any register of births which has been marked " Adopted " in accordance with the provisions of section 10, and any corresponding entry in the Adoption Register;

Provided that no books and registers kept under this section shall be open to public inspection or search, and that the Registrar-General shall not, except under an order of a court of competent Jurisdiction, furnish any person with any information contained in, or with any copy or extract from, any such register or book.

13. (1) The court having jurisdiction to make an adoption order under this Part Procedure- &c, shall be the Family Court having jurisdiction in the place at which the applicant, or the child in respect of whom the application is made, resides.

(2) It shall be lawful for the Judges of the Supreme Court or any five of them, of whom the Chief Justice shall be one, to make rules prescribing the manner in which applications to the court are to be made and the procedure to be followed in the hearing of such applications, and providing for all matters connected with or incidental to the matters aforesaid.

Such rules may provide for applications for adoption orders being heard and determined otherwise than in open court.

(3) The matters for which rules may be made under subsection (2) shall be deemed to be added to the list of matters in respect of which rules may be made under Article 136 of the Constitution.

(4) For the purpose of any application under this Part, the court shall, subject to any rules made under this section, appoint some person or body of persons to act as guardian *ad litem* of the child upon the hearing of the application with the duty of safeguarding the interests of the child before the court.

Adoption Register not open for public inspection or search. [§5, Law 6 of 1977.]

(5) For the purposes of the Civil Procedure Code and of the Stamp Ordinance an application to the court for an adoption order shall be deemed to be an action of the value of one-hundred rupees;

Provided, however, that no stamp duty shall be chargeable in respect of any such application.

Restriction of payments.

14. Any adopter who shall receive, except with the sanction of the court, any payment or other reward in consideration of the adoption of any child under this Part, and any person who, except with the sanction of the court, shall make or give or agree to make or give to any adopter any such payment or reward, 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 which may extend to six months, or to both such fine and imprisonment.

Savings as to marriage law.

15. Nothing in this Part shall be construed to authorize any marriage that could not lawfully have been contracted if this Ordinance had not been enacted ; nor shall anything in this Part contained place an adopting parent or an adopted child as against each other's relatives by consanguinity or affinity within the degrees within which marriage is prohibited by the provisions of any other written law.

Savings for adoption under Kandyan law or *Tesawalamai*.

16. The provisions of this Part shall be in addition to and not in substitution of the provisions of any written or other law relating to the adoption of children by persons subject to the *Tesawalamai* or the Kandyan law; and notwithstanding anything to the contrary in such other law, an adoption order may be made authorizing any such person to adopt a child, and where made, shall have effect in accordance with the provisions of this Part.

Replacement of damaged or lost entries in the Adoption Register. [§6, Law 6 of 1977.]

16A. If any Adoption Register or any entry in that register is lost or damaged, the Registrar-General may, after inquiry, direct a copy thereof to be made, verified and certified in such manner as he may direct and thereupon such copy shall be substituted for and shall for all the purposes of this Ordinance and every other written law be deemed to be the register or the entry so damaged or lost.

16B. (1) The Minister may make Regulations. regulations for or in respect of any matter [§6, Law 6 of 1977] stated or required in this Part to be prescribed, and generally for the purpose of carrying out and giving effect to the provisions of this Part.

(2) Every regulation shall be published in the Gazette and shall come into operation upon such publication or on such later date as may be specified in such regulation.

(3) Every regulation shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which any regulation is so deemed to be rescinded shall be published in the Gazette.

17. In this Part, unless the context otherwise requires— interpretation of part L

"adopter" means the person authorized by an adoption order to adopt a child, and where such an order is made in favour of a husband and wife on their joint application, means both husband and wife;

"appointed date" means the 1st day of February, 1944;

"child" means a person under the age of fourteen years;

"court" means the Family Court having jurisdiction under section 13 to make an adoption order;

"guardian" in relation to a child includes any person who, in the opinion of the court, has for the time being charge of or control over the child ;

"prescribed" means prescribed by [§7, Law 6 of 1977-]

PART II

REGISTRATION OF CUSTODIANS OF CHILDREN

Registration of persons having custody of children on appointed date.

18. (1) Save as otherwise provided in section 29, no person who on the appointed date has in his care, custody or control any child of whom he is not the natural parent, shall continue to keep the child in his care, custody or control after the expiry of a period of three months from that date unless he gives notice in the prescribed form to an authorized officer to the effect that the child is in his custody.

(2) An authorized officer shall, on receipt of a notice under subsection (1) from any person, transmit the notice to the Government Agent of the district in which that person is resident; and the Government Agent shall thereupon register that person as the custodian of the child and deliver to him a certificate of registration in the prescribed form.

(3) Nothing in the preceding provisions of this section shall be deemed to prejudice the power of a Government Agent to register any person under subsection (2) as the custodian of a child, notwithstanding that the notice given by that person under subsection (1) is received after the expiry of the period mentioned in that subsection.

(4) In this section, " authorized officer" includes any police officer for the time being in charge of a police station, and any Registrar appointed under the Births and Deaths Registration Act or the Marriage Registration Ordinance.

Registration as custodians of persons taking children into their custody.

19. (1) Save as otherwise provided in section 29, no person shall on or after the appointed date, take or receive into his care, custody or control any child of whom he is not the natural parent, unless he has been registered by an authorized officer as the custodian of that child.

(2) An authorized officer shall not register any person under this section as the custodian of any child—

(a) unless application is made to him in the prescribed form by the applicant for such registration;

(b) unless he considers it expedient, after such inquiry as he may deem necessary, in the interests of the child that the child should be placed in the care, custody and control of the applicant;

(c) unless the parents of the child/ consent, or in the case of an illegitimate child, the mother consents, in the presence of the officer, to deliver the child into the care, custody and control of the applicant; and

(d) where the child is over ten years of age, unless such child consents to such registration:

Provided, however, that an authorized officer may dispense with the consent of any person whose consent is required under paragraph (c), if the officer is satisfied that the person whose consent is to be dispensed with is dead or cannot be found, or has abandoned, deserted or neglected the child, or has been adjudged by a competent court to be of unsound mind.

(3) An authorized officer shall, upon the registration by him of any person as the custodian of a child, issue to that person a certificate of registration in the prescribed form, and transmit a copy of the certificate to the Government Agent of the district in which that person is resident.

20. Where any person is registered under this Ordinance as the custodian of a child, the child shall, until he attains the age of eighteen years, be a protected person for the purposes of this Part and the provisions of sections 21 to 26 shall apply accordingly ;

Protected persons.

Provided, however, that nothing in any of those sections shall apply in the case of any such protected person if he permanently leaves or is permanently removed from the care, custody or control of the person registered as his custodian.

21. It shall be the duty of every person who is registered as the custodian of a protected person—

Duties of registered custodians.

(o) to provide adequate food, clothing and medical attention for the protected person;

ADOPTION OF CHILDREN

(b) as soon as may be after the protected person is taken into his care, custody or control or attains the age of twelve years (whichever of these events is the later) to open an account at the National Savings Bank in his own name as trustee for the protected person as beneficiary, " and, until the protected person attains the age of eighteen years, to deposit each month to the credit of that account, an amount determined in accordance with such scales as may be prescribed ;

(c) at the end of each successive period of - six months after the aforesaid account is opened, to send for purposes of inspection to the Government Agent of the district in which he is resident the deposit book issued -by the bank in respect of that account;

(d) to furnish to the Government Agent of the district in which he is resident such returns and information, relating to the protected person, as the Government Agent may from time to. time require him to furnish.

Special provisions as to accounts opened under section 21.

22. Notwithstanding anything in any rule in force under the National Savings - Bank Act or in any other law—

(a) in the caption or title of the account opened for the benefit of a protected person under section 21, the description " a protected person " shall be added immediately after his name; and

(b) notpart of the amounts deposited to the credit of such account shall be, or be permitted by the bank to be, withdrawn, until the protected person attains the age of eighteen years.

Visits, inspections, &c.

23. It shall be lawful for any prescribed officer or for any other person specially or generally authorized in that behalf by the Minister—

(a) from time to time to visit and examine any protected person and to make such inquiries as may be

necessary relating to the treatment and welfare of the protected person; and

(6) for the purpose of any such visit, examination or inquiry, to' enter and inspect at any reasonable time during the day, any premises in which the protected person is for the time being resident or employed.

24. ;*A protected person shall not, while he is in the care, custody or control of the person who is registered as his custodian, be deemed to be employed as a domestic servant for the purposes of any other written law relating to the registration or wages of domestic servants.

Law relating' to domestic servants not to apply to protected persons.

25. The registration of any person as the custodian of any protected person shall not be deemed in any way to prejudice or affect the right of the natural parents or of the lawful guardian of the protected person to remove the protected person from the care, custody and control of the custodian.

Savings for rights of parents.

26. The Government Agent of every district shall cause a register to be maintained in the prescribed form containing such particulars as may be prescribed relating to protected persons who are in the care, custody or control of custodians resident in that district.

Register of protected persons.

27. (I) Any person who—

Offences and penalties.

(a) acts in contravention of any provision of this Part;

(b) fails or refuses to furnish any return or information when required to do so under this Part; or in furnishing any such return or information, makes any statement which he knows to be incorrect; '

(c) fails or refuses to comply with any of the provisions of paragraphs (a), (b) and (c) of section 21; or

(d) resists or obstructs any prescribed officer or other person in the exercise of the powers conferred on such officer or person by section 23,

shall be guilty of an offence, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment.

(2) Where any person is convicted of the offence of having failed or refused to deposit the appropriate amount to the credit of any account opened by him in accordance with the requirements of paragraph {b} of section 21, the Magistrate may, without prejudice to any punishment which may be imposed for the offence, direct that amount to be recovered from that person in like manner as a fine and when so recovered to be deposited to the credit of that account.

regulations **28.** (1) The Minister may make regulations for or in respect of any matter stated or required in this Part to be prescribed, or for which regulations are required or authorized to be made under this Part, and generally for the purpose of carrying out or giving effect to the principles and provisions of this part.

(2) Every regulation shall be published in the Gazette and shall come into operation upon such publication. > .

(3) Every regulation shall, as soon as may be after the date of the publication thereof in the Gazette, be brought before Parliament by a motion that such regulation be approved.

(4) Every regulation which is approved by Parliament shall, upon the notification in the Gazette of such approval, be as valid and effectual as though it were herein enacted.

(5) Any regulation which Parliament refuses to approve shall be deemed to be rescinded with effect from the date of such refusal, but without prejudice to the validity of anything previously done or suffered to be done thereunder. Notification of the date on which any such regulation is deemed to be rescinded shall be published in the Gazette.

(6) The provisions of section 7 of the Interpretation Ordinance shall apply in relation to the power to make regulations under this section in like manner as they apply in the case of the power to make rules or issue orders under any enactment.

29. (1) Nothing in this Part shall apply in any case where a child is in, or is taken or received into, the care, custody or control of any person—

- (a) who is a relative or the lawful guardian of the child ;
- (b) who adopts or has adopted the child in pursuance of an adoption order made under Part I, or has the care, custody or control of the child by virtue of an *interim* order made under that Part;
- (c) in whose care or under whose supervision the child is placed by an order made by a court under the provisions of any other written law;
- (d) who is for the time being in charge of any orphanage, hospital, home or other institution maintained by the Government, or of any other institution which is declared by notification in the Gazette under the hand of the Minister to be an approved institution for the purposes of this paragraph; "
- (e) who is for the time being in charge of any school which is maintained by the Government, or which is in receipt of a grant from State funds, or is declared by notification in the Gazette under the hand of the Minister to be an approved school for the purposes of this paragraph;
- (f) who belongs to any such class of persons as may be exempted by regulation from the provisions of this Part.

(2) In this section, " relative " when used with reference to a legitimate child, means a grandparent, brother, sister, uncle, aunt or child of an uncle or aunt, by consanguinity or affinity ; and when used with reference to

an illegitimate child, means any person who would be so related to the child if the child were legitimate.

Interpretation of Part II.

30. In this Part, unless the context otherwise requires—

“appointed date” means the 1st day of February, 1944;

“authorized officer” means any Government Agent, Assistant Government Agent, Magistrate or Unofficial Magistrate or any officer of the Department of Health for the time being in charge of a

Government hospital, and includes any other officer or person who belongs to any class of persons declared by regulation to be authorized officers for the purposes of section 19;

“child” means a person under the age of fourteen years;

“prescribed” means prescribed by regulation;

“regulation” means a regulation made by the Minister under this Part.

[Section 10.]

SCHEDULE

No. of Entry.	Date of Entry.	Name of adopted child. (Enter name as stated in adoption order).	Sex of adopted child. (Enter sex as stated in adoption order).	Name and surname, address and occupation of adopter or adopters. (Enter name, address and occupation as stated in adoption order).	Date of birth of child. (Enter date of birth, if any, directed by the adoption order to be entered but otherwise no entry).	Date of adoption order and description of court by which made. (Entry to be made as appearing in the adoption order).	Signature of officer deputed by Registrar-General to attest the entry.

CHAPTER 80

ABOLITION OF FIDEICOMMISSA

Act No. 20 of 1972, Law No. 13 of 1972,

AN ACT TO ABOLISH FIDEICOMMISSA, ENTAILS, SETTLEMENTS AND RESTRAINTS ON ALIENATION ; TO REGULATE AND PROVIDE FOR TITLE TO PROPERTY NOW SUBJECT TO FIDEICOMMISSA, ENTAILS, SETTLEMENTS AND RESTRAINTS; TO LIMIT THE CREATION OR OPERATION OF INTERESTS IN REMAINDER OR REVERSION; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[12th May. 1972.]

Short title.

1. This Act (may be cited as the Abolition of Fideicommissa and Entails Act.

4. Where under the terms of any will, deed or other instrument, executed prior to the commencement of this Act, any fideicommissum, entail, settlement, restraint on alienation, limit or curtailment exists, the property in question shall from the commencement of this Act be and for all purposes be deemed to be vested absolutely, free of any fideicommissum, entail, settlement, restraint on alienation, limit or curtailment, in the person in whom the title to such property is at the commencement of this Act vested subject to such fideicommissum, entail, settlement, restraint on alienation, limit or curtailment and no other successor, whether named or described therein or not, shall be deemed to have any right or title to such property under the terms of such disposition.

Restriction! existing in instruments executed prior to the commencement of the Act.

Prohibition on creation of fideicommissa, &c.

2. From and after the commencement of this Act no provision contained in any will, deed or other instrument shall have the effect of creating any fideicommissum, entail, settlement or restraint on alienation of property, or have the effect of limiting or curtailing the rights of the person to whom property has been disposed by such will, deed or other instrument, in such a manner that upon the happening of some future event, whether such event is certain to happen or not, or upon the expiry of some period of time, rights in such property become vested in any other successor.

Restrictions created in instruments executed after the commencement of this Act.

3. Where any will, deed or other instrument executed after the commencement of this Act, contains any provision that creates or purports to create or has the effect of creating any disposition of property which is in conflict or inconsistent with the provisions of section 2 of this Act, such property shall, notwithstanding such provision, be held absolutely free of any fideicommissum, entail, settlement, restraint on alienation, limit or curtailment, and no other successor, whether named or described therein or not, shall have or be deemed to have any right or title to such property under the terms of such disposition,

5. Where under the terms of any trust, whether created before or after the commencement of this Act, there is provision for the succession to the interest of a beneficiary by any other succeeding beneficiary, whether by way of remainder or reversion, upon the happening of some future event, whether such event is certain to happen or not, or upon the expiry of some period of time, then, the interest of the beneficiary in whom the beneficial interest is vested shall be and for all purposes shall be deemed to be absolute, and no other succeeding beneficiary shall have any right to succeed thereto by way of remainder or reversion to such interest:

In the case of successive beneficiaries under a trust, the interest of the present beneficiary to be deemed to be absolute.

Provided, however, that the preceding provisions of this section shall not apply to charitable trusts as defined in the Trusts

Ordinance and to Muslim charitable trusts or wakfs as defined in the Muslim Mosques and Charitable Trusts or Wakfs Act, or to property held in trust under the provisions of the Buddhist Temporalities Ordinance or any trust under which the beneficiary in whom the beneficial interest is, on the commencement of this Act, vested, is—

- (a) a person of unsound mind ;
- (b) a mentally deranged person;
- (c) a mentally deficient person; or
- (d) a person who is incapacitated due to old age or mental or bodily infirmity or disease.

- (i) where the transfer was in pursuance of a sale, the right to repurchase, and obtain an execution of the conveyance of, the property from the person in possession of it, upon paying to the possessor the price paid by such possessor for such interest and the cost of any necessary or useful improvements effected by such possessor; or
- (ii) where the transfer was in pursuance of a donation, the right to revoke the donation and recover the property from the person in possession upon paying to the possessor the cost of any necessary or useful improvements effected by him,

Persons vested with title by virtue of this Act to have absolute disposing power.

6. Where the title to any property or any interest in property is or is deemed to be vested in any person by virtue of the operation of this Act, then such person shall have absolute power to dispose of such property or interest:

such right of repurchase or of revocation being exercisable within six months of the commencement of this Act.

(2) The provisions of subsection (1) shall not apply where the person in possession of the property at the time of commencement of this Act, derives title to any property which may have been subject to fideicommissum by a title adverse to and independent of any fiduciary under such fideicommissum, or is himself a bona fide possessor of such property without notice of the fideicommissum, or derives title from such a possessor.

Provided, however, that a person who but for the provisions of this Act would have succeeded to such property or interests shall, if he has effected necessary or useful improvements to the property in the hope or expectation of succeeding thereto, be entitled to compensation for such improvements, in accordance with the law relating to such compensation, from the person in whom such property or interest is or is deemed to be vested under the provisions of this Act.

Right of repurchase or revocation.

7. (1) Where a fiduciary interest in property which was subject to fideicommissum has been transferred in pursuance of a sale or a donation prior to the commencement of this Act, the property in question shall from the commencement of this Act be and for all purposes be deemed to be vested absolutely, free of the fideicommissum in the transferee of such fiduciary interest or in any person deriving title from him to such fiduciary interest:

8. (1) Where any property vests or is deemed to vest absolutely in any person by virtue of the operation of this Act free of the interest of any other person or persons, natural or juristic, who but for the operation of this Act would have had an expectation of succeeding thereto as fideicommissary or fideicommissaries, such first-mentioned person may, within six months of the commencement of this Act, execute a transfer of the whole or any part or share of such property, if he has not already sold or otherwise alienated such property, to such other person or persons or any one or more of them, without the payment of stamp duty or gifts tax upon such transfer:

Power of fiduciary vested with ownership under this Act to transfer property to fideicommissary.

Provided, however, that the person who but for such transfer would have been entitled to such fiduciary interest under the terms of the fideicommissum shall have—

Provided, however, that any such transfer shall be subject to any encumbrance created by the transferor prior to such transfer.

In this proviso "encumbrance" means any mortgage, usufruct, servitude, life interest, trust, lease (including a lease at will for a period not exceeding one month) or any interest however arising, other than any interest arising out of any fideicommissum, entail, settlement or restraint on alienation of property referred to in section 2 or the interest of any other succeeding beneficiary referred to in section 5.

(2) Any property transferred under the provisions of subsection (1) shall not—

- (a) be deemed to form part of the estate of the transferor for the purposes of the Estate Duty Ordinance* or the Estate Duty Act; or
- (b) be subject to the provisions of the Estates (Control of Transfer and Acquisition) Act and the Tea and Rubber (Control of Fragmentation) Act.

9. Nothing contained in this Act shall be construed to affect the creation or the continued validity of any trust, other than a trust of the nature referred to in section 5, or of any usufruct or other personal servitude of a like nature which a person may enjoy in property belonging to another.

10. (1) The Entail and Settlement Ordinance is hereby repealed.

(2) (a) Notwithstanding the provisions of subsection (1), where, on the date of commencement of this Act, any moneys have been invested in the Loan Board in pursuance of the provisions of section 7 of the Entail and Settlement Ordinance, any person who is or becomes entitled to such moneys in consequence of the provisions of this Act or of any transfer executed under section 8 of this Act, may apply to court for an order of payment of such moneys to him.

(b) Subject to the provisions of paragraph (e), where, upon an application made under paragraph (a), a court makes any order for payment of moneys which are invested in the Loan Board, the Loan Board

shall pay, in respect of each entail case, the money so ordered to be paid in respect of that case, in the following manner:—

- (i) where the total amount invested in the Loan Board in respect of that case does not exceed one hundred thousand rupees, the full amount within one year of the date of the first order of payment (hereinafter referred to as the "relevant date"), in respect of that entail case,
- (ii) where the total amount invested in the Loan Board in respect of that case exceeds one hundred thousand rupees but does not exceed two hundred thousand rupees, the first one hundred thousand rupees within one year of the relevant date and the balance sum within two years of the relevant date,
- (iii) where the total amount invested in the Loan Board in respect of that case exceeds two hundred thousand rupees but does not exceed four hundred thousand rupees, the first one hundred thousand rupees within one year of the relevant date, the second one hundred thousand rupees within two years of the relevant date, and the balance sum within three years of the relevant date, and
- (iv) where the total amount invested in the Loan Board in respect of that case exceeds four hundred thousand rupees, the first one hundred thousand rupees within one year of the relevant date, the second one hundred thousand rupees within two years of the relevant date, the next sum of two hundred thousand rupees within three years of the relevant date, and the balance sum within four years of the relevant date.

(c) Notwithstanding the provisions of subsection (1), where, on the date of commencement of this Act, any moneys have been invested in Government securities

Saving of simple trusts, usufructs and personal servitudes.

Repeal of Entail and Settlement Ordinance and payment of moneys invested in the Loan Board and in Government securities. (§2. Law 13 of 1972.]

* Sec List of Enactments omitted from the Revised Edition.

in pursuance of the provisions of section 7 of the Entail and Settlement Ordinance, any person who is or becomes entitled to such securities in consequence of the provisions of this Act or of any transfer executed under section 8 of this Act, may apply to court for an order of assignment of such securities to him.

(d) Before a court makes an order of payment or an order of assignment under this section, the court shall give public notice of the application made by the applicant in such manner as the court may deem fit and make its order of payment or assignment only after hearing all persons who may appear before such court in response to such notice. The costs of such public notice shall be borne by the applicant.

(e) (i) The court shall not make an order of payment under paragraph (6) until the applicant produces a certificate from the Commissioner-General of Inland Revenue hereinafter referred to as the "Commissioner-General", stating whether or not any sum of money is due or is likely to become due, under any written law from such applicant to the Commissioner General, and if any sum is due or is likely to become due, the amount of such sum.

(ii) Where such certificate states that no sum of money is due to the Commissioner General from the applicant, the court may make an order of payment in favour of the applicant in the manner set out in paragraph (b).

(iii) Where such certificate states that any sum is due to the Commissioner-General from the applicant, the court shall make an order that such sum shall be paid by the Loan Board to the Commissioner-General and that the balance sum shall be paid to the applicant in the manner set out in paragraph (b).

(iv) Where such certificate states that any sum is likely to be due to the Commissioner-General from the applicant, the court shall make an order that the Loan Board shall deposit in court such sum to the credit of the entail case and pay the balance sum to the applicant in the manner set out in paragraph (b); after the final determination of the sum due to the Commissioner-General from the applicant is communicated to court, the court shall pay such sum to the Commissioner-General and pay the balance sum to the applicant in the manner set out in paragraph (b).

(v) A certificate issued by the Commissioner-General under this paragraph may be produced in court without the Commissioner-General being called, and such certificate shall be prima facie evidence of the truth of the statements contained therein.

11. Subject to the provisions of the Interpretation Ordinance, the provisions of this Act shall have effect notwithstanding anything to the contrary in any other law :

This Act to Prevail over any other law

Provided, however, that nothing in this Act shall in any way affect any right, title or interest whether in expectancy, reversion, remainder or otherwise created or arising by or under the provisions of the Land Development Ordinance, the State Lands Ordinance, the River Valleys Development Board Act, the Tourist Development Act, or by virtue of the provisions of section 10 of the Estate Duty Ordinance.*

12. In this Act—

Interpretation.

" commencement ", in relation to this Act, means the 12th day of May 1972;

" instrument " includes any written law or court order.

* See List of Enactments omitted from the Revised Edition.

CHAPTER 445

ASSEMBLIES OF GOD OF CEYLON

Ordinance AN ORDINANCE TO INCORPORATE THE SOCIETY OF THE ASSEMBLIES OF GOD OF CEYLON.
 No. 53 of 1947.

[2nd July, 1947.]

Short title. **1.** This Ordinance may be cited as the Assemblies of God of Ceylon Ordinance.

Incorporation. **2.** The Reverend Walter Henry Clifford, Chairman; Mr. Charles Rajanayagam Wadsworth, Vice-Chairman; Mr. Samuel Muthuveloe, Secretary; the Reverend Wilfred Cawston, Treasurer; and the Reverend Carl Francis Graves, Pastor John Samuel Wickremaratne, Mr. William James Geoffrey Beling, the Reverend Clinton Newman and Pastor Eric Nathanielsz, Committee Members, and their successors to be elected in the manner hereinafter provided shall be a corporation (hereinafter called "the society") and shall have the name of "The Assemblies of God of Ceylon", and in that name shall have perpetual succession and shall have a common seal and full power and authority to hold, acquire, purchase, accept, take on lease, and enjoy movable and immovable property of every description and to sell, mortgage, alienate, lease or otherwise dispose of or deal with the same and by that name to sue or be sued in all courts and to do, perform or exercise the rights of an owner or lessee or a holder of such property and shall be empowered to lend its name and act as a trustee in respect of any endowment or funds of the Ceylon Council of the Assemblies of God (hereinafter referred to as "the council *") and to borrow money where the necessity arises with or without the security of its own property.

Constitution of the society. **3.** (1) The society shall consist of a chairman, a vice-chairman, a secretary, a treasurer and three other members. The members of the society shall be elected once in two years at the biennial general meeting of the council, and shall also act as the directors of the Ceylon Bible Institute.

(2) The members of the society shall be elected by secret ballot. The following shall be entitled to vote at the election of the members of the society:—

- (a) the members of the General Council of Missionaries working in Sri Lanka;
- (b) ordained ministers;
- (c) licensed preachers;
- (d) Christian workers;
- (e) one delegate from each organized assembly in which there are not more than twenty-five members and another delegate in the event of the membership of such assembly exceeding twenty-five;
- (f) representatives from each outstation assembly that has been in existence for a period of more than one year.

(3) No person shall be elected a member of the society unless he has experienced the Baptism in the Holy Spirit according to Acts II, 4.

4. (1) It shall be lawful for the council from time to time at any general meeting of the members of the council and by a majority of votes to make rules for the transaction of business and the procedure to be observed at the meetings of the council and generally for the management of the affairs and the accomplishment of the objects of the council.

Rules.

(2) All the members of the council shall at all times be subject to the rules for the time being of the council.

Power to hold property.

5. The society shall have power to hold, possess and use property both movable and immovable and whether in possession, expectancy, remainder, reversion or otherwise and to allow itself to be nominated and appointed and to act as trustees for any fund, endowment, bequest, legacy or trust for the use of the council.

at least of the members of the council who shall sign their names on the instrument or document in token of their presence and such signing shall be independent of the signing of any person who may sign the instrument as a witness.

Seal

6. The society shall have an office and the common seal of the council shall be in the custody of the chairman of the society and shall not be affixed to any instrument or document except in the presence of two

7. Nothing in this Ordinance shall affect or be deemed to affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Ordinance and those claiming by, from, or under them.

Saving of the rights of the Republic and other rights.

CHAPTER 79

AGE OF MAJORITY

Ordinance
No. 7 of 1865.

AN ORDINANCE TO MAKE THE AGE OF TWENTY-ONE YEARS THE LEGAL AGE OF MAJORITY
IN SRI LANKA-

[20th October. 1865.]

Short title.

1. This Ordinance may be cited as the Age of Majority Ordinance.

shall be deemed to have attained his majority at an earlier period, any law or custom to the contrary notwithstanding.

Twenty-one
years made
the legal age
of majority.

2. From and after the passing of this Ordinance all persons when they shall attain or who have- already attained the full age of twenty-one years shall be deemed to have attained the legal age of majority, and, except as is hereinafter excepted, no person

3. Nothing herein contained shall extend or be construed to prevent any person under the age of twenty-one years from attaining his majority at an earlier period by operation of law.

Attainment of
majority by
operation of
law not
affected.

CHAPTER 3

ASSIGNMENT OF MINISTERS' FUNCTIONS

Act No. 29 of 1953. AN ACT TO EMPOWER THE PRESIDENT TO MAKE SUCH PROVISIONS AS MAY BE NECESSARY TO GIVE FULL EFFECT TO ASSIGNMENTS OF SUBJECTS AND FUNCTIONS TO MINISTERS.

[30th July, 1953.]

Short title. 1. This Act may be cited as the Assignment of Ministers' Functions (Consequential Provisions) Act.

Minister to whom the subject or function is assigned for the Minister previously in charge of the subject or function;

President's power to make provisions for giving effect to assignments of subjects and functions to Ministers. 2. (1) Where any assignment of any subject or function (hereinafter referred to as "the assignment ") is made by the President under Article 44 or 45 of the Constitution the President may, by Order published in the Gazette, make such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to the assignment, including provisions-

(c) for such alteration the designation of any public officer or the name of any Government department, or such amalgamation of two or more Government departments, or such dissolution of any Government department, as may be necessary in consequence of the assignment; and (d) for such amendments of any written law as may be necessary in consequence of the assignment.

(a) for the carrying on and completion by or under the authority of the Minister to whom the subject or function is assigned of anything commenced by or under the authority of the Minister previously in charge of the subject or function ;

(2) Every Order made by the President under this section and published in the Gazette shall have the force of law.

(b) for the substitution, in any instrument, contract or legal proceedings made or commenced before the date when the Order takes effect, of the

* 4. In this Act, the expression Interpretation. " assignment of any subject or function " includes a determination by the President under Article 44 (2) of the Constitution, to assign to himself any subject or function or to remain in charge of any subject or function not assigned to any Minister.

* Section 3 omitted.

CHAPTER 197

AGRICULTURAL PRODUCTS (REGULATION)

Ordinances AN ORDINANCE TO REGULATE THE IMPORTATION OF AGRICULTURAL COMMODITIES
Nos.29 of 1939 AND TO FACILITATE THE SALE OF THE AGRICULTURAL PRODUCTS OF CEYLON.

Acts
Nos.31 of 1953,
7 of 19M.

[1st October. 1939.]

Short title. **1.** This Ordinance may be cited as the Agricultural Products (Regulation) Ordinance.

Provided that the board may regulate its own procedure in any matter not provided for by regulation.

Appointment of Commissioner and other officers.

2. (1) There may be appointed any person by name or by office to be or to act as Commissioner for Agricultural Marketing, and may in like manner be appointed such Assistant Commissioners and other officers as may be deemed necessary for the purposes of this Ordinance.

(4) Where the board has by resolution determined that information on any matter is necessary for the purposes of this Ordinance, the chairman of the board may, at any time after the passing of such resolution, exercise in respect of any such matter any power conferred on the Director of Statistics by or under the Statistics Ordinance ; and that Ordinance shall, for such purpose, be read and construed and shall have effect as though—

(2) In the exercise of his powers and in the discharge of his duties under this Ordinance, the Commissioner shall be subject to the general direction and control of the Minister.

(a) such matter were a matter to which the provisions of that Ordinance have been duly applied by Order under section 2 of that Ordinance ;

The Agricultural Products Regulation Board.

3. (1) There shall be established an " Agricultural Products Regulation Board " which shall consist of the Commissioner as *ex officio* chairman and not more than five other members all of whom shall be appointed by the Minister.

(b) any reference in that Ordinance to the Bureau of Statistics were a reference to the board ; and

(2) Subject as hereinafter provided, each member of the board shall ordinarily hold office for a period of three years unless he is appointed to be a member of the board for some shorter period :

(c) any reference in that Ordinance to the Director of Statistics were a reference to the chairman of the board.

Provided that any member of the board may at any time resign from the board or be removed therefrom by order of the Minister.

4. (1) It shall be the duty of the board Functions of the board to discharge such functions as are assigned to the board under this Ordinance and to advise the Minister from time to time on the following matters :—

(3) Regulations may be made providing for the conduct of the business of the board and the procedure to be observed at meetings of the board :

(a) the agricultural products to which the provisions of this Ordinance shall be applied by Order under

section 5 and all other matters required to be prescribed by notification under section 6 ;

(b) any other matters referred by the Minister to the board for advice.

(2) The board shall also perform such functions, discharge such duties and exercise such powers as may be assigned or entrusted to or vested in the board by this Ordinance or by any regulation.

Application of Ordinance to specified agricultural products by Order of the Minister.

5. (1) The Minister may, by Order, apply the provisions of this Ordinance with effect from a specified date to any agricultural product specified in that Order, and may, in like manner, vary or revoke any such Order.

(2) An agricultural product specified in an Order is hereinafter referred to as a "regulated product" and shall continue to be a regulated product for the purposes of this Ordinance until that Order is revoked as hereinbefore provided.

(3) Every Order shall, in addition, specify the local product which an importer must purchase in order to obtain a licence to import the regulated product.

(4) An Order may be made in respect of any agricultural product notwithstanding the revocation of any previous Order made in respect of the same product.

(5) Every Order shall be published in the Gazette and shall have effect from the date on which it is so published or from such later date as may be specified therein.

(6) Every Order shall, as soon as possible after the date of its publication in the Gazette, be brought before Parliament by a motion that such Order shall be approved.

(7) Any Order which Parliament refuses to approve shall be deemed to be revoked but without prejudice to the validity of anything previously done thereunder or to the making of any new Order. The date on which an Order shall be so deemed to be revoked shall be the date on which Parliament refuses to approve it.

(8) Notification of the date on which any Order is deemed to be revoked shall be published in the Gazette.

6. (1) The Minister, after consulting the board, may, by Notification published in the Gazette prescribe—

Notification of standard grade price, &c.

(a) the ratio for determining the quantity of the local product which an importer must purchase in order to obtain a licence to import a specified quantity of the regulated product;

(b) the price at which a specified grade of the local product will be sold to an applicant for a licence to import the regulated product and the place at which such local product will ordinarily be delivered to the purchaser.

(2) Where, in respect of any local product, the price referred to in paragraph (b) and proposed to be inserted in a Notification under subsection (1) is, in the opinion of the Minister, less than the cost (including all connected charges and expenses) at which that local product can be obtained by the Commissioner, such price shall not be prescribed by Notification until the Minister in charge of the subject of Finance has concurred in the draft of that Notification.

(3) Any ratio, price, grade, or place specified in a Notification published under subsection (1) is hereinafter referred to as the standard ratio, the standard price, the standard grade, or the standard place.

7. (1) No consignment of any quantity of any regulated product in respect of which the standard ratio is prescribed shall be imported into Sri Lanka unless the importation of a consignment of that quantity of that regulated product is authorized by an import licence issued by the Commissioner under this Ordinance.

Importation of regulated product in respect of which standard ratio is prescribed prohibited except under licence. [§ 2, 7 of 1964.]

(2) A separate import licence shall be necessary in respect of each consignment of any quantity of any regulated product referred to in subsection (1) which is imported into Sri Lanka.

[§ 2,7 of 1964.)

(3) Every import licence issued under this section shall cease to be valid on a date which shall be fixed by the Commissioner and inserted by him in the licence at the time the licence is issued.

[§2.7 of 1964.] (4) For the purposes of the application of the Customs Ordinance, a regulated product in respect of which the standard ratio is prescribed shall be deemed to be an article the importation of which is restricted by Ordinance.

Application for import licence. [§.3.7.1964.] **8.** (1) Every application for a licence to import a consignment of any quantity of any regulated product in respect of which the standard ratio is prescribed shall be made to the Commissioner on a form which shall be provided by him for the purpose.

(2) The form of application for an import licence shall be prepared by the Commissioner and submitted to the board for approval, it shall not be issued for use until it has been approved by the board.

Payment for prescribed quantity of local product a condition precedent to issue of import licence. [§4.7 of 1964] **9.** (1) No person shall be entitled to receive a licence authorizing the importation of a consignment of any quantity of any regulated product in respect of which the standard ratio is prescribed until he has paid to the Commissioner the standard price for delivery at the standard place of that quantity of the standard grade of the corresponding local product which bears the standard ratio to the quantity of such regulated product sought to be imported.

(2) Regulations may be made prescribing the circumstances and cases in which and the conditions subject to which security for payment may be accepted by the Commissioner in lieu of payment; and where such security has been tendered and accepted by the Commissioner in accordance with such regulations, the acceptance of such security shall be deemed to be the equivalent of payment for the purposes of this section.

Coupon for proportionate quantity of local product paid for by importer. **10.** (1) Every person who, under section 9, pays for any quantity of any local product for the purpose of obtaining an import licence, shall be entitled to receive from the Commissioner a coupon for that quantity of that local product-

(2) Where the Commissioner has, in his discretion, fixed the denominations of coupons to be issued in respect of any local product, a person entitled under subsection (1) to a coupon for any quantity of that local product shall be entitled to receive from the Commissioner on demand, instead of a single coupon, coupons of such denominations as will in the aggregate represent that quantity of that local product,

(3) Every coupon shall specify—

(a) the name and address of the person to whom and the date on which it is issued,

(b) the local product in respect of which it is issued and the quantity of that local product; and

(c) the date on which it shall cease to be valid.

(4) At any time before the date specified in any coupon under paragraph (c) of subsection (3), the Commissioner may, by notice sent by registered post addressed to the person to whom that coupon was issued, direct that for the date so specified a later or an earlier date shall be substituted; and that coupon shall accordingly cease to be valid on such substituted date.

11. (1) Subject as hereinafter provided, the person to whom a coupon has been issued under section 10 may, at any time before that coupon ceases to be valid, upon application made to the Commissioner in that behalf, obtain from the Commissioner in exchange for that coupon a delivery warrant for the amount of the local product specified in that coupon :

Coupons to be exchanged for delivery Warrants.

Provided, however, that where, at the time when an application for a delivery warrant for any quantity of a local product specified in any coupon is so made, the Commissioner is of opinion that, having regard to the stocks of that local product at his disposal and to the number of coupons issued in respect of that product, it is inexpedient to issue a delivery warrant in exchange for that coupon at such time, he may defer the issue of such delivery warrant

to some later time, but so, however, that such warrant shall be issued before that coupon ceases to be valid ;

Provided, further, that nothing in the preceding provisions of this subsection shall in any way affect or prejudice any provision of section 12 or section 13.

(2) Every delivery warrant shall specify—

- (a) the quantity and grade of the local product which will be delivered on surrender of that warrant and the place at which such delivery will be made; and
- (b) the person to whom that warrant is issued, the date of issue, and the date on which that warrant shall cease to be valid.

(3) A delivery warrant shall be sufficient authority for any person, on surrender thereof, to obtain at the place specified therein delivery from the stocks at the disposal of the Commissioner of such quantity of such grade of such local product as may be specified in that delivery warrant.

(4) Any person entitled to the delivery of any quantity of any local product on surrender of a delivery warrant at the place of delivery specified in such warrant, shall be entitled, on such surrender, to have that quantity of that local product despatched to him from that place to any railway station named by him on payment to the prescribed officer in the prescribed manner of the freight and charges for the conveyance of such goods to such railway station.

product—

- (a) that such local product shall be of a grade other than the standard grade; or
- (b) that such local product shall be delivered at a place other than the standard place; or
- (c) that such local product shall be of a grade other than the standard grade and shall be delivered at a place other than the standard place.

(3) Where under subsection (2) any variation is made in the grade, or in the place of delivery, or in both the grade and in the place of delivery, of any local product, the standard price of such local product may be varied and the price to be paid for such local product shall be such price as the Commissioner may have fixed for any such variation with the approval of the board.

(4) Where the price fixed under subsection (3) is lower than the standard price, the person to whom a coupon has been issued shall, at the time of issue to him of a delivery warrant in exchange for that coupon, be entitled to a refund of the amount by which the cost at the standard price of the quantity specified in such delivery warrant exceeds the cost of that quantity at the lower price so fixed.

(5) Where the price fixed under subsection (3) is higher than the standard price, the person to whom a coupon has been issued shall not be entitled to receive any delivery warrant in exchange for that coupon until he has paid to the Commissioner the amount by which the cost at such higher price of the quantity specified in any such delivery warrant exceeds the cost of that quantity reckoned at the standard price.

(6) No delivery of any quantity of any local product specified in any delivery warrant shall be made after the date on which that warrant ceases to be valid.

(7) Where delivery of any quantity of any local product specified in any delivery warrant is not taken before the date on which that warrant ceases to be valid, a quantity of that local product in the stocks

Commissioner authorized to issue multiple delivery warrant and to vary standard place of delivery, standard grade, &c.

12. (1) It shall be lawful for the Commissioner in his discretion to issue, in exchange for any coupon, separate delivery warrants for any part of the quantity of the local product specified in that coupon :

Provided that the aggregate of the quantities specified in such delivery warrants shall be equal to the quantity specified in the coupon.

(2) It shall be lawful for the Commissioner in his discretion to specify in any delivery warrant issued under this Ordinance for any quantity of any local

of the Commissioner, corresponding to the quantity of that local product specified in the delivery warrant, shall be sold at the risk of the person to whom that warrant was issued.

(8) Where any quantity of any local product specified in any delivery warrant is sold under subsection (7), the person to whom that delivery warrant was issued may, on application made to the Commissioner and on surrender of that delivery warrant, be entitled to be paid the sum realized at such sale less—

- (a) warehouse charges (at such rates as the Commissioner may in his discretion determine) for that quantity of that local product until the time of sale ; and
- (b) the costs of such sale ;

and, upon payment of such sum to such person, the Government and the Commissioner shall be discharged from any liability to any person in respect of that delivery warrant.

(9) If no application is made under subsection (8) by the person to whom any delivery warrant was issued within a period of six months reckoned from the date of issue specified in that warrant, any sum which such person may have claimed under that subsection shall be credited to the Consolidated Fund ; and the Government and the Commissioner shall thereupon be discharged from any liability to any person in respect of that delivery warrant or of any sum payable under subsection (8) to the person to whom that delivery warrant was issued.

(10) Subject to the provisions of this Ordinance, the issue of a delivery warrant shall be deemed to constitute a contract between the State and the person to whom the delivery warrant is issued.

13. Where a coupon has been issued under section 10 in respect of any quantity of any local product and the Commissioner is of opinion that, having regard to the stocks of that local product at his disposal and to the number of coupons issued in respect of that product, it is inexpedient to issue a delivery warrant in exchange for that coupon, or to defer the issue of such delivery warrant, in accordance with the

provisions of section 11, he may, notwithstanding anything in the preceding provisions of this Ordinance—

- (a) recall and cancel that coupon, and
- (b) refund the price paid under section 9 for the quantity of the local product specified in that coupon.

14. (1) The Minister may make Regulations. regulations for the purposes of this Ordinance and such regulations may contain such incidental, consequential and supplementary provisions as may appear to the Minister to be necessary or proper for giving full effect to this Ordinance,

(2) No regulation shall have effect until it has been approved by Parliament. Notification of such approval shall be published in the Gazette.

(3) Upon the publication in the Gazette of a notification to the effect that a regulation made by the Minister has been approved by Parliament, that regulation shall be as valid and effectual as if it were herein enacted.

15. The Minister may by Notification published in the Gazette, authorize any officer appointed under section 2 to exercise the powers and perform the duties of the Commissioner under this Ordinance in respect of any matter or for any purpose specified in such Notification.

Authority of other officers to act for Commissioner in specified cases.

16. In this Ordinance, unless the context otherwise requires—

interpretation.

" agricultural product " means any agricultural or horticultural produce whether grown in Sri Lanka or outside Sri Lanka and whether in its natural state or otherwise adapted, prepared, treated or dealt with for sale or for consumption and includes any commodity derived or manufactured in whole or in part from any such produce by any Operation or piece&s;

" board " means the Agricultural Products Regulation Board established under this Ordinance;

Cancellation of coupon and refund of price paid under section 9 in certain cases.

"Commissioner" means the person appointed under section 2 to be or to act as Commissioner for Agricultural Marketing and includes an Assistant Commissioner;

"consignment", when used with reference to any regulated product, means any quantity of that product upon the importation of which into Sri Lanka a separate bill of entry is required under the Customs Ordinance to be delivered to the Collector, whether for payment of duty upon, or for the warehousing of, such quantity or for the payment of duty upon such quantity when it is taken out of the warehouse;

"coupon" means a coupon issued under section 10;

"delivery warrant" means a delivery warrant issued under section 11;

"grade", when used with reference to any agricultural product, includes any quality, variety or description of that product;

"import licence" means a licence to import a regulated product;

"local product" means an agricultural product either grown in Sri Lanka or derived or manufactured from an agricultural product grown in Sri Lanka;

"Order" means an Order made by the Minister under section 5 ;

"prescribed" means prescribed by or under this Ordinance or by any regulation;

"regulated product" means an agricultural product to which the provisions of this Ordinance have been applied by an Order;

"regulation" means a regulation made by the Minister under section 14;

"standard", when used with reference to any grade, place, price or ratio, means the grade, place, price or ratio prescribed in a Notification published under section 6.

17. The provisions of this Ordinance shall be in addition to and not in derogation or substitution of the provisions of any other written law relating to the marketing or sale or importation of agricultural products.

Construction of Ordinance.

CHAPTER 199

AGRICULTURAL PRODUCE AGENTS (REGISTRATION)

Ordinances Nos. 28 of 1941, 44 of 1941, II of 1945, 48 of 1946, Act No. 22 of 1955.

AN ORDINANCE TO PROVIDE FOR THE REGULATION OF THE SALE OF AGRICULTURAL PRODUCE THROUGH AGENTS, FOR THE REGISTRATION AND LICENSING OF AGRICULTURAL PRODUCE AGENTS AND FOR PURPOSES INCIDENTAL TO THE MATTERS AFORESAID.

[11th August, 1941]

Short title. **1.** This Ordinance may be cited as the Agricultural Produce Agents (Registration) Ordinance.

REGULATION OF BUSINESS OF AGRICULTURAL PRODUCE AGENTS, &C.

Prohibition against carrying on business as agricultural produce agent in specified areas without licence.

2. (1) On and after such date * as the Governor may appoint by Proclamation published in the Gazette, no person shall, in any area specified in such Proclamation—

- (a) carry on or exercise the business of an agricultural produce agent ;
- (b) in any way advertise or notify that he carries on or exercises, or proposes to carry on or exercise, such business in any such area ;
- (c) do any act which leads to the belief or supposition that he carries on or exercises such business in any such area,

except under the authority of a licence issued under this Ordinance-

(2) The date appointed by any Proclamation under subsection (1) shall be a date not earlier than two months after the date on which that Proclamation is published in the Gazette,

(3) Where a licence under this Ordinance is issued to any person who carries on business as an agricultural produce agent in any area specified in any Proclamation under subsection (1), that licence shall, while it remains in force, be sufficient authority to that person to carry

on such business in any other area or areas which may have been or may be specified in that Proclamation or any other Proclamation under that subsection.

(4) Where the business of an agricultural produce agent is carried on by a firm registered under the Business Names Ordinance, a licence issued in the name of the firm shall be sufficient authority to each member of the firm to carry on business as an agricultural produce agent on behalf of the firm.

(5) In any prosecution against any person for a breach of any provision of subsection (1) that person shall, unless he produces the licence authorizing him to carry on business as an agricultural produce agent, or adduces other satisfactory proof of his having been so licensed, at the time when the offence charged against him was alleged to have been committed, be presumed to have not been so licensed at that time.

3. Where any agricultural produce has been consigned or delivered to any licensed agent for sale on behalf of the owner of such produce –

Restriction of purchases of produce by licensed agents, &c.

- (a) such agent shall not, directly or indirectly, whether by himself or through any other person, purchase such produce, except with the written consent, previously obtained, of the owner of such produce or of some duly authorized person on behalf of such owner ;
- (b) such agent shall not, in any case where he purchases any such

* 1st July, 1944, appointed by Proclamation published in Gazette No. 9,264 of 28th April, 1944.

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produce with the written consent required under paragraph (a), charge to the seller in respect of the sale any fee, charge, or commission whatsoever;

- (c) no person in the employment of such agent shall, directly or indirectly, whether by himself or through any other person, purchase any such produce, except with the written consent, previously obtained of the owner of such produce or of some duly authorized person on behalf of such owner;
- (d) no person whether he is or is not in the employment of such agent, shall in any way aid or abet such agent to commit a breach of any provision of paragraph (a).

Destruction of produce.

4. (1) No licensed agent shall, by himself or through any agent or servant, destroy or cast away or cause to be destroyed or cast away any agricultural produce which is in a marketable condition.

(2) In any prosecution against any person for destroying or casting away any agricultural produce, it shall be a sufficient defence to prove—

- (a) that the destruction or casting away did not raise or tend to raise the price at which agricultural produce similar to the produce so destroyed or cast away, was available to the public; or
- (b) that the produce was destroyed or cast away on the orders of any public officer, or of any officer of a local authority, duly authorized under any written or other law to give such orders.

Fees, charges, &c., of licensed agents.

5. Notwithstanding anything in any written or other law, no licensed agent shall be entitled to receive, or to sue for or recover in any court from any person on whose behalf he sells any agricultural produce, in respect of such sale, any fee, charge, commission, reward or other remuneration in excess of such fees, charges,

commission, reward or other remuneration as may be prescribed.

6. (1) No person shall purchase any agricultural produce from the person by whom or on whose behalf it was actually produced, unless at the time of the purchase or at the time of the delivery of such produce, whichever time is earlier, the price to be paid for such produce has been definitely fixed and agreed to by the seller at a sum certain, and which sum is not to be ascertained subsequently, whether by reference to any other transaction or otherwise.

All purchases of produce to be for definite

(2) The provisions of subsection (1) shall not have effect until a date * to be appointed by the Governor by Proclamation published in the Gazette,

SECURITY TO BE FURNISHED BY AGRICULTURAL PRODUCE AGENTS

7. (1) The Registrar or an Assistant Registrar may at any time require any licensed agent to furnish, before a specified date, security in a specified amount to the satisfaction of the Registrar or Assistant Registrar, as the case may be, for the due compliance by such agent with the provisions of this Ordinance and the regulations made thereunder. It shall be the duty of every licensed agent, who is required under the preceding provisions of this subsection to furnish security before a specified date, to furnish such security before that date.

Security to be furnished by licensed agents.

(2) The security required to be provided by any licensed agent shall be given—

- (a) by the deposit and hypothecation of money; or
- (b) by the hypothecation of immovable property; or
- (c) in such other manner as may be prescribed.

(3) The security provided by any licensed agent shall be liable to be forfeited in whole or in part in such circumstances as may be prescribed, for the purpose of indemnifying

* 1st July, 1944, appointed by Proclamation published in Gazette No. 9,264 of 28th April, 1944.

all persons for whom such agent acts or has acted in his capacity as such agent, in respect of any loss or damage caused by any breach by such agent of any provision of this Ordinance or of any regulation made thereunder; and where such agent is a firm, the security provided by such agent shall be liable to be forfeited as aforesaid for the purpose of indemnifying all persons for whom any member of the firm acts or has acted in the capacity of an agricultural produce agent in respect of any loss or damage caused by any breach by any member of the firm of any provision of this Ordinance or of any regulation made thereunder.

(4) Regulations may be made—

- (a) prescribing the amount, not exceeding one thousand five hundred rupees, in which security shall be given by licensed agents or any class of such agents or any such agents carrying on business in any specified district or area, and the circumstances in which and the conditions and restrictions subject to which the amount so prescribed may be increased or reduced in any individual case at the discretion of the Registrar;
- (b) prescribing the form of document to be executed by licensed agents or by any class of such agents who furnished security;
- (c) providing for any matter incidental or supplemental to the furnishing of security under this Ordinance.

(5) Any person aggrieved by an order of the Registrar or an Assistant Registrar under subsection (1) to furnish security may appeal against such order to the Minister; and the decision of the Minister on any such appeal shall be final and conclusive. Every such appeal shall be preferred within such time and in such manner as may be prescribed in the case of appeals to the Minister under section 28.

BANK ACCOUNTS, BOOKS, REGISTERS, &c.
OF AGRICULTURAL PRODUCE AGENTS

8. (1) The Registrar or an Assistant Registrar may at any time require any licensed agent to open in an approved bank before a specified date, in the name of such agent, an account, to be called the "Agricultural Produce Account". It shall be the duty of every licensed agent, who is required under the preceding provisions of this subsection to open an agricultural produce account before a specified date, to open such account before that date and to furnish to the Registrar, within fourteen days of the opening of such account, a return in the prescribed form containing the prescribed particulars.

"Agricultural Produce Accounts" in banks.

(2) Within fourteen days of the occurrence of any circumstance affecting the accuracy of any particulars furnished by any licensed agent in any return under subsection (1), such agent shall inform the Registrar in writing of such circumstance and shall furnish an amended return.

(3) In this section, "approved bank" means a bank approved by the Minister by regulation.

9. Every sum of money received by any licensed agent who has been required to open an agricultural produce account in respect of the sale of any agricultural produce of any person (over and above any sum advanced by such agent to that person) shall, forthwith upon the receipt of such sum, be paid by such agent into his agricultural produce account.

Payments into agricultural produce accounts.

10. No sum of money paid into the agricultural-produce account of any licensed agent, in respect of the sale of any agricultural produce of any person, and no part of any such sum, shall be paid out in satisfaction or part satisfaction of any debt due by that agent to any creditor of his other than the person on whose behalf such sale was carried out; and, notwithstanding anything in the Civil Procedure Code or any other written law, no such sum or part thereof shall be liable to be seized in execution of any decree entered by any court in respect of any debt due by that agent to any creditor other than the person on whose behalf such sale was carried out.

Money paid into agricultural produce account not to be available for satisfaction of other debts of agent.

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Withdrawals from agricultural produce accounts.

11. No licensed agent shall withdraw from his agricultural produce account for his own use any sums other than such as may be necessary to cover the following:—

- (1) the expenses, commission and other prescribed charges of or incidental to the sale or disposal of any agricultural produce by such agent in his capacity as an agricultural produce agent;
- (2) any sums which may be due, owing and payable to such agent by any person on whose behalf such sale or disposal was carried out.

Moneys received by licensed agents who have not been required to open agricultural produce accounts.

12. Where any licensed agent who has not been required to open an agricultural produce account under section 8 receives any money in respect of the sale of any agricultural produce of any person, such agent shall not appropriate for his own use any part of that money other than such sums as may be necessary to cover the following:—

- (a) the expenses, commission and other prescribed charges of or incidental to the sale or disposal of such produce by such agent in his capacity as an agricultural produce agent;
- (b) any sums which may be due, owing and payable to such agent by the person on whose behalf such sale or disposal was carried out.

Rendering of account and payment of money to principal.

13. Where any agricultural produce of any person has been sold by a licensed agent on behalf of that person, such agent shall, before the expiration of thirty days from the date of the sale, render to that person a full and accurate statement of account relating to the sale and pay to that person the amount due to him in respect of the sale.

Fraudulent rendering of accounts.

14. Every licensed agent who fraudulently renders any false account of the sale or disposal by him of any agricultural produce, or of any money received by him in connexion with such sale or disposal, or of the application of any such money, knowing such account to be false in any material particular, shall be guilty of an

offence and shall on conviction be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

15. (1) Every licensed agent shall keep—

- (a) a record in the prescribed form setting out the prescribed particulars of all transactions entered into by him relating to the sale or disposal of agricultural produce;
- (b) such books, accounts and registers relating to his business as an agricultural produce agent as may be prescribed.

(2) Every entry made in any record, book, account or register under subsection (1), kept by any licensed agent or belonging to such agent or found on any premises in his occupation or under his control, shall be deemed, until the contrary is proved, to have been made by or with the authority of such agent.

16. (1) The Registrar or any Assistant Registrar or any person authorized in that behalf in writing by the Registrar or any Assistant Registrar may, at any time—

- (a) inspect, or call upon any licensed agent to produce within a specified time, any pass book or statement of account relating to the agricultural produce account of such agent, issued to him by the bank in which such account is kept;
- (b) inspect, or call upon any licensed agent to produce within a specified time, any record, book, account, register or document which is in the possession or under the control of such agent and which relates to his business as such agent;
- (c) make any notes from, or take any copy of, the whole or any portion of any book, account, record or document, the inspection of which is authorized by this section;

Records, books, Ac-, to be kept by licensed agent.

Inspection of books, registers, accounts, &c.

(d) question any licensed agent or any employee or servant of such agent in relation to any book, account, record or document the inspection of which is authorized by this section.

(2) It shall be the duty of every licensed agent and of every employee or servant of such agent to furnish such facilities as may be required by the Registrar, Assistant Registrar or person authorized under subsection (1) for the purposes of the exercise of any power conferred by that subsection and to answer truthfully all questions put to such agent, employee or servant in the exercise of any such power.

Preservation of bank pass books, records, registers, &c.

17. Except with the permission of the Registrar, previously obtained, no licensed agent shall destroy, or permit or cause to be destroyed, any bank pass book or statement of account relating to his agricultural produce account, or any record, book, account or register which he is required to keep under section 15, until the expiration of not less than twelve months from the end of the year during which the last entry in any such bank pass book or statement of account or in any such record, book, account or register was made.

Power of Registrar to obtain returns, information, &c.

18. (1) The Registrar or any Assistant Registrar may at any time call upon any licensed agent to furnish him before a specified date—

- (a) a return in the prescribed form containing the prescribed particulars relating to the business of such agent;
- (b) any oral or written information relating to the business of such agent as the Registrar or Assistant Registrar may consider necessary;
- (c) any oral or written explanation relating to any return or information furnished by such agent under paragraph (a) or paragraph (A) as the Registrar or Assistant Registrar may require.

(2) It shall be the duty of every licensed agent who has been called upon under

subsection (1) to furnish any return, information or explanation before a specified date, to make such return or to supply such information truthfully and accurately and before the date specified.

OFFENCES

19. (1) Every person who does any act in contravention of any provision of section 2 shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding one thousand rupees-

Penalty for breaches of the Ordinance or any regulation.

(2) Every licensed agent or other person who does any act in contravention of any provision of this Ordinance (other than section 2 or section 14) or of any regulation, or who fails to comply with any requirement of this Ordinance or of any regulation, shall be guilty of an offence and shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding seven hundred and fifty rupees.

20. (1) Any court before which a licensed agent is convicted of a breach of any provision of paragraph (a) of section 3, may, in addition to any fine imposed for the offence, order the offender to pay to the owner of the produce purchased in breach of the said paragraph (o), such sum as in the opinion of the court fairly represents the profit resulting to the offender by reason of such breach.

Court may order additional sum to be paid by offender against section 3 (a).

(2) Any sum which the court orders an offender to pay under subsection (1) shall be recovered in the same manner as a fine imposed by the court.

21. Any court before which any person is convicted of an offence against this Ordinance may, if satisfied that any other person has sustained loss or damage by reason of the commission of the offence, award to such other person by way of compensation such part of any fine imposed by the court as the court thinks fit.

Part of fine may be awarded by court to any person suffering loss or damage.

22. (1) Where any licensed agent is convicted before any court of—

Court may order cancellation of licence.

- (a) an offence against this Ordinance, or

AGRICULTURAL PRODUCE AGENTS (REGISTRATION) [Cap.199]

(A) any crime within the meaning of the Prevention of Crimes Ordinance and is, on conviction of such crime sentenced to imprisonment,

the court may make order that the licence issued to such agent be cancelled.

(2) Where the court which makes an order under subsection (1) for the cancellation of a licence is the High Court, Magistrate's Court or Primary Court, the court shall communicate such order to the Registrar—

(a) if no appeal is filed in the case within the period allowed for the filing of such appeals under the Code of Criminal Procedure Act, forthwith upon the expiration of such period ;

(fr) if an appeal is filed in the case, forthwith upon the receipt by the original court of the order of the Court of Appeal confirming the order of cancellation of the licence.

Offence by company.

23. Where an offence against this Ordinance is committed by a corporation or company, or by a firm registered under the Business Names Ordinance, every director, and the manager, secretary, or other principal officer (by whatever name called) in Sri Lanka of that corporation or company, or, as the case may be, every partner in Sri Lanka of that firm, shall also be guilty of such offence, unless the person charged proves that the offence was committed without his knowledge or connivance and without any negligence on his part.

LICENCES

No licence to be issued to persons under twenty-one.

24. No person who is under the age of twenty-one years shall be licensed as an agricultural produce agent under this Ordinance.

Validity of licences.

25. Every licence issued to an agricultural produce agent shall come into force on the day specified in that behalf in such licence and shall, subject to prior cancellation under the provisions of this Ordinance, be valid and continue in force

until and including the thirty-first day of December next following the day so specified.

26. Every application for a licence to carry on business as an agricultural produce agent shall be in the prescribed form and shall—

Applications for licences—

(a) state the full name, age and sex of the applicant and, where the application is for the renewal of an existing licence, the number and other particulars of such licence ;

(ft) contain such particulars, relating to the nature of the business carried on or proposed to be carried on by the applicant and his principal and other places of business, as may be prescribed;

(c) specify in which of the modes mentioned in section 7 the applicant proposes to provide security if he is required to furnish security under that section;

(d) where the principal place of business of the applicant is situated within the administrative district of Colombo, be transmitted to the Registrar, and, where such place of business is situated in an administrative district other than Colombo, to the Assistant Registrar of such other district;

(e) where the application is for the renewal of an existing licence, be so transmitted not less than two months before the date on which such existing licence is due to expire; and

(f) be accompanied by the prescribed fee.

27. The Registrar or Assistant Registrar, on being satisfied that any applicant for a licence as an agricultural produce agent is a fit and proper person to be the holder of such a licence, shall register the applicant as an agricultural produce agent and shall issue to him a licence in the prescribed form.

Issue of licences.

Refusal of licence and appeal therefrom.

28. (1) Where the Registrar or an Assistant Registrar refuses to issue an agricultural produce agent's licence to any applicant, he shall communicate such refusal to the applicant in such manner as may be prescribed.

(2) Any person aggrieved by any refusal under subsection (1) may appeal against such refusal to the Minister and the Minister may, on any such appeal, make order confirming such refusal or directing the Registrar or Assistant Registrar, as the case may be, to issue a licence to the applicant, and may give such other directions in the matter as he may deem necessary.

(3) Where the Minister makes order under subsection (2) that a licence be issued to the applicant, the Registrar or Assistant Registrar shall, subject to any directions of the Minister, register the applicant as an agricultural produce agent and issue to him a licence.

(4) Regulations may be made prescribing the time within which appeals under this section shall be preferred to the Minister and generally in respect of all matters incidental to or connected with the hearing or disposal of such appeals.

Assistant Registrar to report issue of licence to Registrar.

29. Where an agricultural produce agent's licence is issued by an Assistant Registrar, he shall forthwith report to the Registrar the fact that such licence has been issued, together with full particulars relating to such licence and the person to whom it has been issued; and the Registrar shall enter the prescribed particulars relating to the issue of such licence in the register kept by him under this Ordinance.

Registers of licensed agents.

30. The Registrar and every Assistant Registrar shall keep a register of licensed agents in the prescribed form.

Cancellation of licences on order of court.

31. Where any order made by any court under section 22 that the licence issued to any agricultural produce agent be cancelled is communicated to the Registrar, the Registrar shall forthwith cancel such licence and make or cause to be made such alterations as may be necessary in any register of agricultural produce agents kept by him or by any Assistant Registrar under this Ordinance.

32. Regulations may be made prescribing the circumstances, other than the circumstances referred to in section 22, in which licences issued under this Ordinance may be cancelled.

Cancellation of licences in other circumstances.

MISCELLANEOUS

33. It shall be the duty of every licensed agent—

Duties of licensed agent in relation to principal place of business.

(a) within seven days of changing the location of his principal place of business to inform the Registrar of such change by notice in writing, giving full particulars of his new principal place of business, and, if his licence was issued to him by any Assistant Registrar, to furnish a notice in the same terms to that Assistant Registrar within the aforesaid period; and

(b) at all times to keep exhibited at his principal place of business a board or sign setting out, clearly and legibly in Sinhala, Tamil and English, his name and the words "Licensed Agricultural Produce Agent".

34. All notices, documents or communications required by or under this Ordinance to be sent or given to or served upon any licensed agent shall be deemed to have been duly sent, given or served if left at the principal place of business of such agent or sent by post addressed to such agent at his principal place of business; and every notice, document or communication so sent by post shall be deemed to have been served at the time at which it would have been received in the ordinary course of post.

Service of notices

In proving such service by post it shall be sufficient to prove that the notice or other document, or the letter containing it, was duly addressed and posted.

35. Subject to the provisions of sections 10, 20 and 21, nothing in this Ordinance shall affect any civil remedy any person may have against any licensed agent in respect of any matter.

Civil remedies not affected.

AGRICULTURAL PRODUCE AGENTS (REGISTRATION) [cap199.

Expansion of definition of "agricultural produce".

36. The Minister may by notification in the Gazette declare that any article or class of articles specified in such notification shall be deemed, for all the purposes of this Ordinance, to be included in the definition of "agricultural produce" in section 39.

Appointment of Registrar, &c.

37. (1) There may be appointed—

- (a) any person, by name or by office, to be or to act as Registrar of Agricultural Produce Agents;
- (A) any person, by name or by office, to be or to act as Assistant Registrar of Agricultural Produce Agents for any administrative district;
- (c) such other officers and servants as may be necessary for the purposes of this Ordinance.

(2) Where no appointment is made under paragraph (b) of subsection (1) in respect of any administrative district, the Government Agent of such district shall be deemed to be the duly appointed Assistant Registrar of such district.

REGULATIONS

Regulations:

38. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of any or all of the following matters ;—

- (a) all matters stated or required by this Ordinance to be prescribed ;
- (b) all matters for which regulations are required or authorized by this Ordinance to be made ;
- (c) the exemption from the payment of a fee for an agricultural produce agent's licence in particular cases, and the conditions and restrictions subject to which such exemption may be granted;

(d) the form and particulars of accounts to be rendered by licensed agents under section 13;

(e) the exemption, in the discretion of the Registrar, of any licensed agent or any class of such agents, from the liability to keep any particular records, books, registers or accounts required by this Ordinance, and the conditions subject to which such discretion shall be exercised;

(f) the inspection, by the person on whose behalf any agricultural produce has been sold by any licensed agent, of any record, book, account or register of such agent relating to any transaction between such person and such agent, and the conditions and restrictions subject to which such inspection and the taking of any copy of such record, book, account or register shall be permitted;

(g) the furnishing of returns and of statistics relating to agricultural produce or the sale thereof by persons, whether agricultural produce agents or not;

(h) the regulation of the sale on credit by a licensed agent of any produce consigned or delivered to him for sale;

(f) the issue and circulation throughout Sri Lanka or any part thereof of official market reports relating to agricultural produce, and of lists of licences issued under this Ordinance and of cancellations of such licences;

(g) the registration of any matters for the registration of which no special provision is made in this Ordinance;

(k) all matters incidental to or connected with the matters or subjects specifically referred to in the foregoing provisions of this subsection.

(3) Every regulation made by the Minister shall be brought before Parliament by a motion that such regulation shall be approved. No regulation made by the Minister shall have effect until it has been approved by Parliament. Notification of such approval shall be published in the Gazette.

(4) A regulation made by the Minister when approved by Parliament shall, upon notification of such approval in the Gazette, be as valid and effectual as if it were herein enacted.

interpretation

39. In this Ordinance, unless the context otherwise requires—

"agricultural produce" means any unmanufactured agricultural, horticultural or animal produce of Sri Lanka and includes flour manufactured from any produce of Sri Lanka, live or dead poultry, game and eggs and also any other article or class of articles in respect of which a notification under section 36 has been issued, but does not include green tea leaf or rubber latex.

"agricultural produce agent" means any person who as an agent for others, whether on commission or for or in expectation of any fee, gain or reward, whether alone or in connexion with any other business, carries on or exercises the business, or advertises or notifies that he carries on the business, of selling agricultural produce or of a broker or factor of agricultural produce; but does not include any person employed merely in the capacity of a clerk or servant, or any banking company, or any person, being a licensed auctioneer, conducting a sale of the vendor's own agricultural produce on the vendor's property;

"Assistant Registrar" means an Assistant Registrar of Agricultural Produce Agents under this Ordinance;

"licensed agent" means a person licensed under this Ordinance to carry on business as an agricultural produce agent;

"principal place of business" when used with reference to any licensed agent, means the place specified as such by that agent in his application for a licence under section 27, or, if that agent has sent to the Registrar one or more notices under section 33, the place specified as such in the most recent of such notices;

"Registrar" means the Registrar of Agricultural Produce Agents under this Ordinance.

40. (1) Nothing in the preceding provisions of this Ordinance shall be deemed to prohibit or restrict the sale of any agricultural produce by any co-operative society on behalf of any member of such society, and no such society shall be deemed to carry on or exercise the business of an agricultural produce agent by reason only of the fact that any agricultural produce of any member of such society is sold on behalf of that member by such society.

Application of Ordinance to sale of produce by co-operative societies on behalf of members.

(2) Regulations may be made providing that, for the purposes of the application of any provision of this Ordinance in any case where an agricultural produce is sold by a co-operative society on behalf of any member of such society, any reference in that provision to the owner of any agricultural produce or to the person by whom any such produce is produced shall be deemed to be or to include a reference to the co-operative society by which the produce is sold.

(3) In this section, "co-operative society" means a co-operative society registered or deemed to be registered under the Co-operative Societies Law.

CHAPTER 198

AGRICULTURAL PRODUCE (GRADING AND MARKING)

Ordinance AN ORDINANCE TO PROVIDE FOR THE GRADING AND MARKING OF AGRICULTURAL
 No. 8 of 1940, PRODUCE AND OF CERTAIN ARTICLES OF FOOD OR DRINK, AND FOR PURPOSES
Act CONNECTED WITH THE MATTERS AFORESAID.
 No. 32 of 1953.

[26th April. 1940]

- Short tillc. **1.** This Ordinance may be cited as the Agricultural Produce (Grading and Marking) Ordinance.
- Regulations prescribing grade designations and marks, Ac. **2.** (1) The Minister may make regulations—
- (a) prescribing such designations (hereinafter referred to as " grade designations ") as the Minister may consider appropriate to indicate the quality of any scheduled article, and defining the quality indicated by each designation so prescribed ;
 - (b) specifying appropriate marks (hereinafter referred to as " grade designation marks ") to represent particular grade designations ;
 - (c) prescribing the officers by whom, and the conditions upon which, certificates may be granted authorizing the marking with a grade designation mark of any article in respect of which such mark has been prescribed, or of any covering which contains, or label which is attached to, any such article ;
 - (d) prescribing the form of certificates granted under this Ordinance and the fees or scales of fees payable therefor ;
 - (e) specifying the grounds upon which a prescribed officer may refuse to grant a certificate under this Ordinance, and providing for appeals to the Minister from such refusals and for the fees to be paid upon such appeals ;
 - (f) providing for the recovery, from persons to whom certificates are granted under this Ordinance, of any expenses incurred in connexion with the manufacture or use of any die, block, machine or other instrument requisite for the purpose of the reproduction of any grade designation mark, or in connexion with the manufacture or use of any covering or label marked with a grade designation mark ;
 - (g) specifying the mode of marking articles with grade designation marks, the manner in which such articles shall be packed, the type of covering or label to be used, and the quantity of such articles to be included in each such covering ;
 - (h) amending the Schedule to this Ordinance by the addition thereto of any article of agricultural produce;
 - (i) providing for the detention and disposal of articles ordered to be forfeited to the State under this Ordinance ;
 - (j) providing for any matters incidental to or connected with the matters specifically referred to in this subsection.
- (2) Every regulation shall be published in the Gazette and shall have effect from the date on which it is so published or from such later date as may be specified therein.
- (3) Every regulation shall, as soon as possible after the date of its publication in the Gazette, be brought before Parliament by a motion that such regulation shall be approved-

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(4) Any regulation which Parliament refuses to approve shall be deemed to be rescinded but without prejudice to the validity of anything previously done thereunder or to the making of any new regulation. The date on which a regulation shall be so deemed to be rescinded shall be the date on which Parliament refuses to approve it.

(5) Notification of the date on which any regulation is deemed to be rescinded shall be published in the Gazette.

Prohibition of unauthorized use of grade designation marks, and issue of certificates.

3. (1) No person shall, except under the authority of a certificate in that behalf granted by a prescribed officer under this Ordinance, mark with a grade designation mark any scheduled article, or any covering which contains, or label which is attached to, any such article.

(2) Every certificate granted under this Ordinance shall be in the prescribed form and shall be subject to such conditions as may be prescribed.

(3) A prescribed officer may, upon such grounds as may be specified by regulation, refuse to grant a certificate under this Ordinance to any person. An appeal shall lie to the Minister from such refusal, and the decision of the Minister on any such appeal shall be final and conclusive.

Penalty for contravention of Ordinance or regulations.

4. (1) Any person who acts in contravention of the provisions of section 3 (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees.

(2) Any person who, being the holder of a certificate granted under this Ordinance, contravenes any condition attached to the certificate, or acts in contravention of any provision of any regulation, shall be guilty of an offence and shall be liable to a fine not exceeding one hundred rupees; and the court which convicts such person may, in addition to any other punishment which it may impose for the offence, make order cancelling the certificate granted to him.

5. Any person who—

- (a) forges or counterfeits any grade designation mark; or
- (b) uses, sells, offers for sale, disposes of, or has in his possession, any grade designation mark, knowing or having reason to believe the same to be forged or counterfeited ; or
- (c) makes any die, block, machine or other instrument for the purpose of forging or counterfeiting a grade designation mark; or
- (d) uses, sells, offers for sale, disposes of, or has in his possession, any die, block, machine or instrument, knowing or having reason to believe the same to be intended for the purpose of forging or counterfeiting any grade designation mark ; or
- (e) uses in connexion with any article whatsoever any mark of such a character or in such manner as to be calculated by reason of its resemblance to a grade designation mark. to deceive,

Penalty for forgery of marks and for manufacture, Ac., of instruments for forging marks.

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

6. The court which convicts any person of any offence under this Ordinance relating to the marking of any article with a grade designation mark may make order declaring that the article shall be forfeited to the State.

Forfeiture of articles-

7. In this Ordinance, unless the context otherwise requires—

" agricultural produce" includes all produce of agriculture or horticulture, all articles of food or drink wholly or partly manufactured or derived from any such produce, and fleeces and skins of animals,

"covering" includes any vessel, box, crate, wrapper, tray, or other container

condition of the article;

"regulation" means a regulation made under section 2;

"egg" means an egg laid by a domestic fowl or a domestic duck;

"scheduled article" means any article for the lime being specified in the Schedule * to this Ordinance.

"label" includes a band or ticket;

"prescribed" means prescribed by regulation;

8. The provisions of this Ordinance shall be in addition to and not in substitution or derogation of the provisions of any other written law relating to or affecting merchandise marks or the sale of any scheduled article. **Savings.**

"quality", when used with reference to any article, includes the state and

• Schedule omitted — See List of Enactments omitted from the Revised Edition.

Cap. 203] AGRICULTURAL PRODUCTS (GUARANTEED PRICES AND CONTROL OF HULLING AND MILLING)

CHAPTER 203

AGRICULTURAL PRODUCTS (GUARANTEED PRICES AND CONTROL OF HULLING AND MILLING)

Acis
Nos.33 of 1961
17 of 1964

AN ACT TO PROVIDE FOR THE GRADING OF, AND THE FIXING OF GUARANTEED PRICES FOR, CERTAIN AGRICULTURAL PRODUCTS OF SRI LANKA ; TO REQUIRE THE COMMISSIONER OF AGRARIAN SERVICES, AND PURCHASERS AUTHORIZED BY HIM, TO PAY THE GUARANTEED PRICE FOR THE PURCHASE OF AGRICULTURAL PRODUCTS TO WHICH SUCH PRICES APPLY ; TO CONTROL THE HULLING AND MILLING OF PADDY ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[2nd June. 1961.]

Shon title.

1. This Act may be cited as the Agricultural Products (Guaranteed Prices and Control of Hulling and Milling) Act.

(c) such number of members not exceeding seven as may be appointed by the Minister from among persons who appear to him to have experience and shown capacity in agricultural, commercial or financial matters or in administration. [§ 2, 17 of 1964.]

Grading of a scheduled agricultural product-

2. The Commissioner may, by Order published in the Gazette and in such other manner as he may consider suitable for giving publicity to the Order, specify from time to time the grade or grades of any scheduled agricultural product.

Fixing of a guaranteed price for, or a guaranteed price for each or any of the different grade of, a scheduled agricultural product.

3. The Commissioner may, after consultation with the Guaranteed Prices Advisory Committee and with the approval of the Minister given after consultation with the Minister in charge of the subject of Finance, by Order published in the Gazette and in such other manner as he may consider suitable for giving publicity to the Order fix from time to time—

(2) A member of the Guaranteed Prices Advisory Committee appointed under subsection (1) (c) (hereinafter referred to as an "appointed member") shall hold office for a term of three years from the date of his appointment. [§ 2, 17 of 1964.]

(a) a guaranteed price for a scheduled agricultural product which is not graded under this Act, and

(3) An appointed member may resign from the Committee by letter addressed to the Minister. [§ 2, 17 of 1964.]

(b) a guaranteed price for each or any of the different grades of a scheduled agricultural product which is graded under this Act.

(4) An appointed member may be removed from office by the Minister if such member is absent from the meetings of the Committee for a period of three months or for any cause which appears to the Minister to be reasonable or if the Minister considers it expedient to remove such member from office. [§ 2, 17 of 1964.]

The Guaranteed Prices Advisory Committee.

4. (1) The Guaranteed Prices Advisory Committee shall consist of—

(a) the Commissioner of Agrarian Services who shall be the Chairman of such Committee ;

(5) Where any appointed member of the Committee resigns or is removed from office or dies, the Minister may appoint another person to be a member in place of the member who resigns or is removed from office or dies and the person so appointed shall hold office during the unexpired period of the term of office of the member in whose place he was appointed. [§ 2, 17 of 1964.]

(b) an officer of the General Treasury nominated by the Minister in charge of the subject of Finance ; and

CHAPTER 261

AGRARIAN SERVICES

Act No. 58 of 1979.

AN ACT TO PROVIDE SECURITY OF TENURE TO TENANT CULTIVATORS OF PADDY LANDS; TO SPECIFY THE RENT PAYABLE BY TENANT CULTIVATORS TO LANDLORDS; TO PROVIDE FOR MAXIMUM PRODUCTIVITY OF PADDY AND OTHER AGRICULTURAL LANDS THROUGH THE PROPER USE AND MANAGEMENT OF AGRICULTURAL CROPS AND LIVESTOCK; TO PROVIDE FOR THE ESTABLISHMENT OF AGRARIAN SERVICES COMMITTEES; TO PROVIDE FOR THE DETERMINATION OF TENURIAL AND OTHER DISPUTES RELATING TO AGRICULTURAL LAND BY THE COMMISSIONER OF AGRARIAN SERVICES; TO CONFER AND IMPOSE CERTAIN POWERS AND DUTIES ON THE COMMISSIONER; TO PROVIDE FOR THE APPOINTMENT OF CULTIVATION OFFICERS; TO PROVIDE FOR THE REPEAL OF THE AGRICULTURAL PRODUCTIVITY LAW, NO. 2 OF 1972, AND THE AGRICULTURAL LANDS LAW, NO. 42 OF 1973 ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[25 th September, 1979.]

Short title.

1. This Act may be cited as the Agrarian Services Act. following particulars to the Commissioner :—

- (a) the name of the landlord ;
- (b) the name of the tenant cultivator;
- (c) the extent of paddy land cultivated by the tenant cultivator; and
- (d) such other particulars as may be prescribed.

PART I

TENANT CULTIVATORS OF PADDY LANDS

Circumstances in which tenant of paddy land is regarded as its tenant cultivator.

2. (1) Where any person is the cultivator of any extent of paddy land let to him under any oral or written agreement then, if he is a citizen of Sri Lanka, he shall, subject to the provisions of this Act, be the tenant cultivator of that extent.

(2) Where two or more persons are the cultivators either jointly or in rotation of any extent of paddy land let to them under any oral or written agreement then, subject to the provisions of this Act, each such person shall, if he is a citizen of Sri Lanka, be a tenant cultivator of that extent for the season or seasons in which he is a cultivator of that extent.

Landlord to furnish particulars.

3. (1) Every landlord of an extent of paddy land in respect of which there is a tenant cultivator shall, in the prescribed manner within six months of the date of commencement of this Act, furnish the

(2) For the purpose of furnishing the particulars referred to in subsection (1) the landlord shall refer to the Register of Agricultural Lands for the time being in force.

(3) Where a change occurs in any of the particulars referred to subsection (1) such change shall be notified to the Commissioner by the landlord within six weeks of the occurrence of such change.

(4) Any landlord who fails to comply with the requirements of subsection (1) or subsection (2) shall be guilty of an offence under this Act.

4. (1) The maximum extent of paddy land that could be cultivated by a tenant cultivator shall be five acres.

Order determining the maximum extent of paddy land.

(2) The Minister may subject to the provisions of subsection (1) by Order published in the Gazette determine the extent of paddy land that may be cultivated by a tenant cultivator in any district to which such Order relates :

Provided, however, that where the Commissioner is satisfied after due inquiry that a tenant cultivator is also an owner cultivator of any paddy land of not less than five acres in extent, the Commissioner may declare that such tenant cultivator shall not be entitled to his rights as a tenant cultivator under the provisions of this Act, and accordingly the provisions of subsections (3), (4), (5) and (6) of this section shall apply to such tenant cultivator.

(3) The tenant cultivator shall, if he is in occupation of an extent of paddy land in excess of the extent specified in an Order under subsection (2), subject to the approval of the Commissioner, be entitled to select the extent of paddy land which he is entitled to cultivate, and shall vacate the balance extent on being ordered to do so by the Commissioner.

(4) Where a tenant cultivator fails to comply with the provisions of subsection (3) he shall be evicted from the extent of paddy land in excess of the extent specified in the Order under subsection (2) and the provisions of section 6 shall apply to any such eviction.

(5) On vacation of such extent by the tenant cultivator, the landlord shall, with the approval of the Commissioner—

(a) be entitled to cultivate such extent on such conditions as may be prescribed; or

(b) appoint one or more tenant cultivators for such extent within such period as may be prescribed.

(6) On failure of the landlord to take action under the provisions of paragraph (a) or paragraph (b) of subsection (5) within the prescribed period, the Commissioner shall be entitled to appoint a suitable person to cultivate that extent of paddy land.

5. (1) A tenant cultivator of any extent of paddy land shall have the right to occupy and use such extent in accordance with the provisions of this Act and shall not be evicted from such extent notwithstanding anything to the contrary in any oral or written agreement by which such extent has been let to such tenant cultivator, and no person shall interfere in the occupation and use of such extent by the tenant cultivator and the landlord shall not demand or receive from the tenant cultivator any rent in excess of the rent required by this Act to be paid in respect of such extent to the landlord.

Rights of tenant cultivators; provision in regard to certain evicted tenants of paddy lands; and restriction of eviction of tenants of paddy lands.

(2) Notwithstanding anything in any other law, the tenant cultivator of any extent of paddy land which is purchased by any person under the Partition Law; or which is allocated to a co-owner under a decree for partition shall be deemed to be the tenant cultivator of that extent of paddy land of such purchaser or such co-owner, as the case may be, and the provisions of this Act shall apply accordingly.

(3) Where a tenant cultivator of any extent of paddy land notifies the Commissioner that he has been evicted from such extent, such Commissioner may hold an inquiry for the purpose of deciding the question whether or not such person had been evicted.

(4) The notification referred to in subsection (3) shall be made within one year from the date of such eviction :

Provided, however, that where such tenant cultivator has been evicted at any time within two years prior to the date of commencement of this Act such notification shall be made within two years of the date of commencement of the Act.

(5) If at such inquiry it is proved to the satisfaction of the Commissioner that the tenant cultivator had been evicted, it shall be presumed, unless the contrary is proved, that such eviction had been made by or at the instance of the landlord.

(6) The landlord of the extent of paddy land and the person evicted shall be given an opportunity of being heard in person or through a representative at the inquiry. The

decision of the Commissioner after such inquiry shall be communicated in writing to the landlord and the person evicted. If the landlord or the person evicted is aggrieved by a decision of the Commissioner, 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 Court of Appeal against that decision on a question of law. Where no appeal is made from a decision of the Commissioner within the time allowed therefor, such decision shall be final and conclusive and shall not be called in question in any court or tribunal.

(7) Where, at any inquiry referred to in subsection (3), the Commissioner decides—

(a) that eviction has been established and no appeal is made from such decision within the time allowed therefor, or the Court of Appeal has, on any such appeal, confirmed the decision of the Commissioner that eviction has been established; or

(b) that eviction has not been established and the Court of Appeal has on appeal varied the decision of the Commissioner and held that eviction has been established, then—

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

(ii) the Commissioner shall in writing order that every person in occupation of the 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 the landlord of such extent shall, for each day during which a person in

respect of whom an order under this paragraph has been made continues to occupy such extent after the date specified in that order, pay to the person mentioned in subparagraph (i) damages at such rate as may be prescribed unless such landlord satisfies the Commissioner that such person was evicted without the knowledge, consent or connivance of such landlord.

(8) Where the landlord of the extent of paddy land fails or refuses to pay, within fourteen days after demand, any sum which he is required to pay as damages under subsection (7), such sum may, on application made by the person evicted to the Magistrate's Court having jurisdiction over the place where such extent is situate, be recovered in like manner as a fine imposed by such court notwithstanding that such sum may exceed the amount of the fine which that court may in the exercise of its ordinary jurisdiction impose.

(9) Where a person (hereafter in this subsection referred to as the "lessor") lets any extent of paddy land to any other person (hereafter in this subsection referred to as the "lessee") and the lessee does not become the tenant cultivator of such extent by reason of the fact that he is not the cultivator thereof, then, if the lessee lets such extent to any person (hereafter in this subsection referred to as the "subtenant") and the subtenant becomes the tenant cultivator of such extent by reason of his being the cultivator thereof, the subtenant's right as the tenant cultivator of such extent shall not be affected in any manner by the termination of the lease granted by the lessor to the lessee:

Provided, however, that the lessee shall not let such extent to a subtenant unless he—

(a) obtains the consent in writing of the owner of such extent; and

(b) thereafter notifies the Agrarian Services Committee within whose area of authority such extent wholly or mainly lies:

Provided, further, that where any extent of paddy land is let by a lessee to a subtenant without obtaining the consent in writing of the owner of such extent, the owner shall be entitled to cultivate such extent in accordance with the provisions of subsection (5) of section 4.

(10) The rights of a tenant cultivator of any extent of paddy land shall not be affected in any manner by the sale (whether voluntary or in execution of the decree of a court), the transfer by gift, testamentary disposition or by assignment, or by devolution under the law of inheritance of the right, title and interest of the landlord of such extent.

(11) The rights of a tenant cultivator to occupy and use any extent of paddy land shall not be sequestered, seized or sold in execution of the decree or process of any court.

(12) If any person directly or indirectly makes use of, or threatens to make use of, force, violence, or restraint or inflicts, or threatens to inflict, any harm, damage or loss upon or against a tenant cultivator of any extent of paddy land in order to induce, compel, or prevail upon, that tenant cultivator to refrain from exercising any right or privilege conferred upon him by or under this Act, such person shall be deemed to interfere in the occupation and use of such extent by that tenant cultivator.

(13) If any person contravenes the provisions of this section he shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees.

Procedure in
eviction.

6. (1) Where any person who has been ordered under this Act by the Commissioner to vacate any extent of agricultural land fails to comply with such order, the Commissioner or any person authorized in that behalf by the Commissioner may present to the Magistrate's Court within whose local jurisdiction such extent wholly or mainly lies a written report—

(a) setting out the nature of such order and the person to whom it was

issued, describing the extent of land to which such order relates ;

(b) stating that the person who has been ordered to vacate has failed to so vacate such extent; and

(c) praying for an order to evict such person and all other persons in occupation of such extent from such extent, and mentioning the person to whom delivery of possession of such extent should be made.

(2) Where a written report is presented to a Magistrate's Court under subsection (1), such court shall direct the Fiscal or peace officer to evict forthwith the person specified in such report and all other persons in occupation of the extent of agricultural land specified in the order to deliver possession of such extent to the person mentioned in such report as the person to whom delivery of possession of such extent should be made.

(3) The Fiscal or peace officer entrusted with the execution of the order of eviction shall comply with the directions of the Magistrate's Court by which such order was made and shall make a due return of the manner in which he executed such order.

(4) In executing an order of eviction the Fiscal or the peace officer or any person authorized by either of them may use such force as may be necessary to enter the extent of agricultural land to which the order relates and evict any person bound by the order and to deliver possession of such extent in accordance with the directions of the Magistrate's Court which issued the order.

(5) Any person who unlawfully dispossesses a tenant cultivator who has been placed in possession of an extent of paddy land by the Fiscal under subsection (3) shall be guilty of an offence under this Act.

(6) Upon conviction for an offence under subsection (5) the Magistrate shall direct the Fiscal to place the tenant cultivator who has been unlawfully dispossessed from such extent, in possession of such extent by evicting any person in occupation of such extent.

Nominations of successor to tenant cultivator's rights.

7. (1) 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, may nominate a member of his family as a successor who shall be entitled to succeed to such tenant cultivator's rights under this Act in respect of such extent upon the death of such tenant cultivator.

(2) Any nomination of a successor may at any time be cancelled by the tenant cultivator who made such nomination and a fresh nomination of a successor may be made by such tenant cultivator.

(3) The nomination of a successor and the cancellation of any such nomination shall be effected by a tenant cultivator in a document substantially in the prescribed form executed and witnessed in duplicate before a Government Agent, a divisional Assistant Government Agent, a Registrar of Lands, a notary or a Justice of the Peace.

(4) No stamp duty shall be charged or levied on the execution of a document specified in subsection (3).

(5) A document specified in subsection (3) shall not be deemed to be an instrument affecting land for the purpose of the Registration of Documents Ordinance, nor shall the provisions of Chapter II of that Ordinance apply to any person before whom any such document is executed.

(6) A document specified in subsection (3) shall not be valid unless and until it has been registered by the Registrar of Lands of the district in which the land to which that document refers is situated.

(7) After the registration of a document specified in subsection (3) whereby a person is nominated as successor to a tenant cultivator's rights under this Act in respect of any extent of paddy land, a document specified in that subsection whereby any other person is nominated as successor to such rights shall not be registered unless the nomination effected by the registered document has been duly cancelled by the registration of a document of cancellation. In one and the same document a registered nomination may be cancelled and some

other nomination in lieu thereof may be made, and, in that event, the document in which such cancellation and nomination are combined may be registered and shall upon due registration operate both as a cancellation of the previously registered nomination and as a nomination of a new nominee.

(8) Regulations may be made prescribing the procedure for the registration of a document specified in subsection (3) including the registers which shall be kept and the fees which shall be charged for such registration.

(9) Any person shall, on payment of the prescribed fee, be entitled to inspect at the office of the Registrar of Lands any register kept by such Registrar for the purposes of subsection (6).

8. (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 and he has not nominated a successor under section 7 or the successor nominated by him under that section is dead, 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 oldest being preferred to the others where there are more children than one and in the absence of children on a parent, brother or sister of such tenant cultivator provided the successor to the deceased tenant cultivator's rights is a person whose main occupation is cultivation and whose only source of income is derived from such extent of paddy land.

Devolution of rights of tenant cultivator in the absence of nomination of successor and in cases of cultivation jointly or in rotation.

(2) Where a tenant cultivator of any extent of paddy land who cultivates such extent jointly or in rotation with any other tenant cultivator or cultivators, dies his right in respect of such extent in his capacity as such tenant cultivator shall devolve on such other tenant cultivator or cultivators.

9. (1) Where, on the death of a tenant cultivator of any extent of paddy land, there is a dispute as to the person on whom the rights of such tenant cultivator under this Act devolves, such dispute shall be referred by the parties to such dispute

Commissioner to decide disputes regarding devolution of rights to tenant cultivator.

for determination to the Commissioner within whose jurisdiction the extent of land in respect of which such dispute has arisen is wholly or mainly situated. The determination of the Commissioner on such dispute shall be communicated to the parties to such dispute.

(2) Where the parties to such dispute are aggrieved by the determination made under subsection (1) such parties may, within thirty days of the communication of such determination to them, appeal to the Court of Appeal against that determination on a question of law.

Curators.

10. (1) If the Commissioner is satisfied after such inquiry as he may deem necessary that the rights of a tenant cultivator under this Act have devolved on a minor, he may, notwithstanding anything in any other law, appoint a fit and proper person to be the curator of that minor for the purpose of enabling the minor to exercise his rights and to discharge his duties under this Act.

(2) A curator appointed under subsection (1) may be removed from office by the Commissioner if he is satisfied after inquiry that such curator has failed to perform his obligations or has been guilty of action or conduct adverse or prejudicial to the interests of the minor, or that the curator is unfit to continue to hold office or for any other sufficient cause.

(3) A curator appointed under subsection (1) shall, in respect of the extent of paddy land belonging to the minor whose curator he is, have and exercise all the rights and be subject to all the liabilities of a curator appointed by a court of competent jurisdiction.

(4) A person appointed under subsection (1) as the curator of a minor shall cease to hold office upon the appointment by any court of competent jurisdiction of any other person as curator of that minor.

Transfer and
cession of
rights of tenant
cultivator.

11. (1) A tenant cultivator of any extent of paddy land, after giving written notice of his intention so to do to the landlord of such extent and to the Cultivation Officer within whose local

jurisdiction such extent wholly or mainly lies, may—

(a) if he cultivates such extent either jointly or in rotation with any other tenant cultivator or cultivators, transfer his rights in respect of such extent to any other such tenant cultivator who is a citizen of Sri Lanka; or

(b) if he does not cultivate such extent either jointly or in rotation with any other tenant cultivator or cultivators, transfer his rights in respect of such extent to his spouse and failing such spouse to only one of his children the eldest being preferred to the others when there are more children than one.

(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, cede his rights in respect of such extent to his landlord if such landlord is also the owner of such extent.

(3) Any transfer or cession by the tenant cultivator in violation of the provisions of subsection (1) or (2) shall be null and void and shall render the person in occupation of such extent to be evicted in accordance with the provisions of section 6 and on such eviction the provisions of subsection (5) of section 4 shall apply.

(4) Notwithstanding anything in the preceding provisions of this section, where, in respect of any extent of paddy land, there is a registered nomination of a successor made by the tenant cultivator of such extent, a transfer or a cession under this section of the rights of such tenant cultivator shall not be valid unless and until such nomination is duly cancelled and such cancellation is duly registered.

12. Where the rights of a tenant cultivator of any extent of paddy land are transferred by him to any person, such person shall, subject to the provisions of this Act, be a tenant cultivator of such extent.

Effect of
transfer of
rights of tenant
cultivator.

Where there is no successor to inherit a tenant cultivator's rights.

13. Where a tenant cultivator of any extent of paddy land dies and there is no nominated successor or member of the family to inherit the deceased's rights under this Act in respect of such extent, then—

(a) if the landlord of such extent is also the owner of such extent, he may, after giving within two months after the death of such tenant cultivator written notice that he desires to be the owner cultivator of such extent to the Commissioner, occupy and use such extent as owner cultivator; or

(b) if the landlord of such extent is not the owner of such extent, and the landlord and the owner of such extent fail to give, within the time allowed therefor, the written notice referred to in paragraph (a), the Commissioner shall appoint any suitable person to be the tenant cultivator of such extent.

Person not entitled to rights of a deceased tenant cultivator in respect of any extent of paddy land not to occupy and use such extent.

14. (1) Where a tenant cultivator of any extent of paddy land dies, no person who is not entitled under this Act to the rights of such tenant cultivator in respect of such extent shall occupy and use such extent.

(2) Where any extent of paddy land is occupied and used by any person in contravention of subsection (1), the Commissioner shall in writing order such person to vacate such extent on or before such date as shall be specified in such order. If such person fails to comply with such order he shall be evicted from such extent in accordance with the provisions of section 6.

Power of Commissionere to appoint tenant cultivator.

15. (1) Where there is no tenant cultivator in respect of an extent of paddy land and such extent is not cultivated for two or more successive seasons, the Commissioner may, subject to the provisions of subsection (2), appoint the cultivator of any extent of paddy land which in the opinion of the Commissioner is an uneconomic extent, to be the tenant cultivator of the first-mentioned extent.

(2) No appointment under subsection (1) shall be made by the Commissioner in respect of any extent of paddy land unless—

(a) he has given written notice of his intention so to do to the landlord of such extent, and

(b) the landlord of such extent has failed to show, within such time as shall be specified in such notice, sufficient cause against the making of such appointment.

(3) Where any such extent of paddy land as is mentioned first in subsection (1) is occupied and used by any person at the time a tenant cultivator is appointed under that subsection the Commissioner shall in writing order such person to vacate such extent thereof on or before such date as shall be specified in such 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.

16. Where a tenant cultivator of any extent of paddy land is unable to cultivate such extent during any paddy cultivation season he shall, before the commencement of that season, notify in writing the landlord of such extent and the Commissioner that he is unable to cultivate such extent during that season, and the landlord may, with the approval of the Commissioner, appoint himself or a suitable person to cultivate that extent during that season and not thereafter.

Non-cultivation of any extent of paddy land to be notified to the landlord and the Commissioner.

17. (1) The Commissioner shall, by notification published in the Gazette, determine from time to time in accordance with the provisions of this section, the rent to be paid by the tenant cultivator of any extent of paddy land.

Rent to be determined by the Commissioner

(2) A determination under subsection (1) shall specify the number of bushels of paddy, not exceeding fifteen, in respect of each cultivated acre of any extent of paddy land in any region to which such determination applies or 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, whichever is greater, as the rent payable for that extent for each paddy cultivation season.

(3) The rent determined under subsection (I) may vary in respect of different administrative districts or in respect of different parts of an administrative district.

(4) Where the rent determined under subsection (I) is computed on the basis of a specified number of bushels of paddy for each cultivated acre, the rent for any cultivated area of less than one acre shall be computed in the proportion that such area bears to one acre.

(5) The rent payable for any extent of paddy land shall, for each paddy cultivation season, consist, *oi*—

(a) the quantity of paddy computed for that extent in accordance with such determination in force under the preceding provisions of this section as is applicable to paddy lands of the region in which that extent lies, or

(b) where the landlord desires to have the rent in money and the tenant cultivator agrees to pay the rent in money, the equivalent in money of the rent payable in paddy under paragraph (a) of this subsection, computed at the price fixed for the time being for paddy of the same description as the paddy from that extent in accordance with the provisions of this Act.

(6) Where the Commissioner is satisfied that the tenant cultivator of any extent of paddy land has wilfully neglected the cultivation of such extent during any paddy cultivation season in which cultivation was possible or has, without reasonable cause, committed during any paddy cultivation season a breach of any established custom relating to cultivation, the Commissioner may order that the rent for such season payable in paddy under the provisions of this Act in respect of such extent shall be computed on the basis specified by the Commissioner and according to the rent in paddy so computed the rent in money shall be computed.

(7) Where the cultivation of the extent of paddy land of a tenant cultivator is a partial failure during any paddy cultivation season for any cause other than his fault or neglect, the rent payable by him for such season in respect of such extent shall be reduced by such reasonable amount as shall be determined by the Commissioner.

(8) Where any dispute arises between the tenant cultivator of any extent of paddy land and his landlord as to the amount of the rent payable in respect of such extent under the determination made under subsection (I), such dispute may be referred for decision to the Commissioner, the decision of the Commissioner on such dispute shall be communicated in writing to such tenant cultivator and to his landlord and such decision on any such dispute shall be final and conclusive—

18. (1) When the landlord informs the Commissioner that the tenant cultivator is in arrear of rent in respect of an extent of paddy land the Commissioner shall on being satisfied that the arrears of rent are not being paid, 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.

Consequence of failure by tenant cultivator to pay rent.

(2) A tenant cultivator who fails to pay the arrears of rent within the time specified therefor shall be deemed to have forfeited his tenancy and shall vacate such extent on being ordered to do so by the Commissioner.

(3) If the tenant cultivator fails to vacate such extent within the time specified in the order the Commissioner shall cause such tenant cultivator to be evicted from such extent in accordance with the provisions of section 6.

(4) When the tenancy rights of a tenant cultivator have been terminated in accordance with the provisions of this section the owner or his authorized agent shall with the approval of the Commissioner—

(a) be entitled to cultivate such extent on such condition as may be prescribed, or

(b) appoint one or more tenant cultivators for such extent within such period as may be prescribed.

(5) On failure of the landlord to take action under the provisions of paragraph (a) or paragraph (b) of subsection (4) within the prescribed period the Commissioner may appoint a suitable person as a tenant cultivator of such extent.

When rent is not payable.

19. Where the extent of paddy land of a tenant cultivator is not cultivated during any paddy cultivation season or the cultivation of such extent during such season completely fails for any cause other than his fault or neglect no rent for such season shall be payable in respect of such extent.

Time and place for paying rent and when rent commences to be in arrear.

20. The rent for any paddy cultivation season shall be paid at the threshing-floor on or before the thirtieth day after harvesting of the crop from such extent for such season and if not so paid shall commence to be in arrear on the first day after the said thirtieth day.

Tenant cultivator to inform landlord of the dates for harvesting and removal of paddy.

21. (1) It shall be the duty of the tenant cultivator of any extent of paddy land to give to his landlord and to the Cultivation Officer within whose local jurisdiction such extent wholly or mainly lies—

(a) at least ten days' notice of the date on which it is intended to commence the harvesting of the crop from such extent, and

(b) at least seven days' notice of the date on which it is intended to remove from the threshing floor the crop harvested from such extent.

(2) Any tenant cultivator who fails to comply with the provisions of paragraph (a) or (b) of subsection (1) shall be guilty of an offence under this Act.

To whom rent is payable.

22. (1) The rent in respect of any extent of paddy land shall be paid by the tenant cultivator of such extent to the landlord of such extent or to his authorized agent either directly or through the Agrarian Services Committee, where such landlord fails or refuses to accept such rent.

(2) Where there are two or more landlords of an extent of paddy land, they shall appoint a person for the purpose of collecting the rent from the tenant cultivator of such extent, and shall in writing notify the name and address of the person appointed for such purpose to the Agrarian Services Committee within whose local jurisdiction such extent wholly or mainly lies, and, if no such appointment is made, such rent shall be paid, directly or through such Committee to the person, if any, who customarily collects such rent for such landlords.

(3) If there is no person entitled to collect such rent or if there is any dispute as to the proportion in which such rent should be paid to each landlord, or as to the person to whom such rent should be paid, such rent computed in money in accordance with the provisions of this Act shall be paid by such tenant cultivator to such Committee, and such Committee shall pay such amount less any expenses incurred by such Committee in handling such rent, to the District Court within whose local jurisdiction such extent wholly or mainly lies, to be drawn by the person or persons entitled thereto.

(4) Where the amount referred to in subsection (3) is not drawn by the person or persons entitled thereto within one year after the date on which such sum was paid to such court, such court shall cause such sum to be paid into the Agrarian Services Fund and no person thereafter shall be entitled to demand or receive such amount.

23. (1) Where the tenant cultivator of any extent of paddy land instead of paying the rent for such extent directly to the landlord of such extent or to his authorized agent pays it to the Agrarian Services Committee within whose local jurisdiction such extent wholly or mainly lies, such Committee shall—

Provisions applicable where rent is paid through the Agrarian Services Committee to the landlord or to his authorized agent.

(a) if such rent is paid in money, cause the amount of such rent to be transmitted to such landlord or to his authorized agent, as the case may be; or

(b) if such rent is paid in paddy, cause to be sent to such landlord or to his authorized agent, as the case may

be, a written notice requesting him to take delivery of such rent within thirty days after the date of such notice; and

- (c) deduct from such rent any expenses incurred by such Committee in the handling of such rent

(2) Where the rent for any extent of paddy land is paid in paddy to the Agrarian Services Committee, and such rent is not claimed by the person entitled thereto within thirty days after the date of the notice sent to him under subsection (1), such Committee may cause the paddy to be sold and shall cause the proceeds of the sale to be transmitted to such person.

(3) Where any sum of money transmitted (otherwise than by money order or postal order) to any person under this section by the Agrarian Services Committee is not claimed by such person within one year after the date on which such sum was transmitted, such sum shall be paid into the Agrarian Services Fund by such Committee, and no person thereafter shall be entitled to demand or receive such sum or the rent which such sum represents,

24. (1) The person entitled to collect the rent in respect of any extent of paddy land shall, on receiving the rent, issue to the person by whom the rent is paid a receipt Specifying—

- (a) the date of payment,
- (b) the person who paid the rent,
- (c) the amount of the rent paid,
- (d) the period for which the rent is paid, and
- (e) the paddy land in respect of which the rent is paid.

(2) The person entitled to collect the rent under subsection (1) shall if he fails to comply with that subsection be guilty of an offence under this Act.

25. Where any rent in respect of any extent of paddy land is in arrear, the amount of rent in arrear computed in money in accordance with the provisions of this Act shall bear simple interest at the prescribed rate.

26. (1) Where any sum is due from the tenant cultivator of any extent of paddy land to his landlord as rent in arrear or interest on such rent or both, the landlord may apply to the Commissioner for an order, and the Commissioner shall upon such application, make an order after due inquiry for the payment of whatever sum is due from such tenant cultivator-

Recovery of rent and interest in arrear-

(2) If such tenant cultivator fails to pay such sum within the time allowed by the order under subsection (1), such sum may be recovered upon application being made by the landlord to the Magistrate's Court having jurisdiction over the place where the land in respect of which the rent is due is situated in like manner as a fine imposed by such court notwithstanding that such sum may exceed the amount of the fine which that court may in the exercise of its ordinary jurisdiction impose, and any sum so recovered shall be paid by such court to the applicant landlord.

(3) For the purposes of subsection (2) a certificate by the Commissioner that such sum is due to the landlord shall be conclusive proof that such sum is due.

PART II

PROVISIONS APPLICABLE TO LOANS GRANTED BY PRESCRIBED BANKS FOR CULTIVATION

27. (1) The owner cultivator or occupier of any agricultural land may obtain a loan from a prescribed bank in respect of such land for any agricultural activity, by creating a mortgage or charge on such land or on any other immovable property which he owns or in which he has an interest, by the execution in duplicate of an instrument substantially in the prescribed form, or on such terms and conditions as may be determined by the prescribed bank without the execution of such instrument.

Terms and conditions of loans by prescribed banks.

(2) Any instrument referred to in subsection (1) shall only be chargeable with a stamp duty equal to one-fifth of the duty chargeable under Schedule A to the Stamps

Receipts to be given for payment of rent.

Interest to be paid on rent in arrear.

Ordinance* for a bond or mortgage of a like nature. Such duty shall be paid on the duplicate of the instrument and the original or counterpart of such instrument shall be exempt from stamp duty, if any.

- (3) Every prescribed bank—
 - (a) shall cause to be numbered with consecutive integral numbers, the instruments executed in favour of such bank under this section according to the order in which they are executed;
 - (b) shall before the fifteenth day of each month deliver or transmit to the Registrar of Lands of the district in which the prescribed bank functions, the duplicate of all such instruments executed in favour of such bank during the preceding month, together with a list of such instruments;
 - (c) shall deliver or transmit to the Registrar of Lands of that district in which the prescribed bank functions, so as to reach such Registrar on or before Wednesday in each week, a list of such instruments executed in favour of such bank during the week ending on the previous Saturday;
 - (d) shall, if any such instrument affects land or immovable property situated in any district, other than that in which the prescribed bank functions, on or before the fifteenth day of the succeeding month, deliver or transmit a copy of the instrument to the Registrar of Lands of the district in which such land or immovable property is situated together with a list of all such instruments as relate to lands or immovable property in such last-mentioned district; and
 - (e) shall, if such instrument is executed by an attorney forward a copy of such power of attorney to the Registrar of Lands of the district in

which such land or immovable property is situated together with a copy of that instrument.

(4) Any instrument referred to in subsection (1), may be signed in the presence of and the execution of such instrument may be attested by the Manager of the branch or office of the prescribed bank granting the loan or any person holding any prescribed office in such bank and at least one other witness; and where such instrument is so signed and attested, nothing in section 2 of the Prevention of Frauds Ordinance shall apply thereto.

(5) Any instrument referred to in subsection (1) may be registered under the Registration of Documents Ordinance as an instrument affecting land.

28. Where default is made in the payment of any sum of money on any loan granted to an owner cultivator or occupier of agricultural land by a prescribed bank under the provisions of this Part or under the corresponding provisions of the Agricultural Lands Law, No. 42 of 1973,+ whether that sum is due on account of principal or interest or of both, default shall be deemed to be made in respect of the whole of the unpaid portion of that loan and the interest due thereon.

Default of payment.

29. (1) Where, under the provisions of this Part, default is made or deemed to be made in respect of the whole of the undischarged or unsatisfied portions of any loan and the interest due thereon the prescribed bank may notify the Commissioner that the owner cultivator or occupier of such agricultural land is in default of the sum of money specified in such notice.

Action by prescribed bank where default is made.

(2) On receipt of a notice referred to in subsection (1), the Commissioner may hold an inquiry for the purpose of deciding whether such owner cultivator or occupier of agricultural land is in default of such sum of money.

* See also the Stamp Duty Act, No. 43 of 1982.

+ Repealed by this Act.

(3) The owner cultivator or occupier of agricultural land and the prescribed bank shall be given an opportunity of being heard in person or through a representative at such inquiry.

(4) Where the Commissioner is satisfied at such inquiry that any sum of money is due to the prescribed bank from the owner cultivator or occupier of agricultural land, the Commissioner shall order such owner cultivator or occupier of agricultural land or any heir or legal representative of such owner cultivator or occupier of agricultural land to pay the sum of money due to the prescribed bank within such time as may be specified in such order.

(5) Where the owner cultivator or occupier of agricultural land fails or refuses to comply with an order made under subsection (4) relating to any sum which he is required to pay to the prescribed bank such sum may on application made by any person on behalf of the prescribed bank to the Magistrate's Court having jurisdiction over the place where such extent of agricultural land is situate, be recovered in like manner as a fine imposed by such court notwithstanding that such sum may exceed the amount of the fine which that court may in the exercise of its ordinary jurisdiction impose.

(6) For the purposes of subsection (5) a certificate under the hand of an officer authorized in that behalf by the prescribed bank to the effect that the sum specified therein is due to such bank from the defaulter named in the certificate shall be conclusive proof that such sum is due to the bank from such defaulter:

Provided, however, that where such occupier is a tenant cultivator and the prescribed bank reports to the Commissioner that it is impracticable or inexpedient to recover such sum in the manner provided for in subsection (5), the Commissioner on being satisfied that such sum cannot be recovered in the manner provided for, may suspend the tenancy rights of such defaulter until such money is paid to the prescribed bank.

30. Notwithstanding anything to the contrary in any law for the time being' in force, any charge or mortgage created or any land or interest therein in favour of E prescribed bank in respect of any loan granted to any owner cultivator or occupier of an agricultural land by a prescribed bank shall have priority over any other charge or mortgage that may have been created over such land or interest therein in favour of any person prior to the date on which the charge or mortgage was created in favour of the prescribed bank.

Priority of charge created by loan made by prescribed bank.

31. Nothing in section 29 shall be deemed to preclude the prescribed bank from recovering the amount due to such bank in accordance with the provisions of any other written law.

Prescribed bank not precluded from other methods of recovery.

32. Nothing in the Debt Conciliation Ordinance shall apply or be deemed to apply to any debt due to any prescribed bank, or to prejudice or affect the rights of any prescribed bank in respect of the recovery of any such debt.

Debt Conciliation Ordinance not to apply to debts due to a prescribed bank.

PART III

EFFICIENT CULTIVATION OF AGRICULTURAL LAND

33. It shall be the duty of every owner cultivator or occupier of any agricultural land to cultivate such land with such crops or rear such breeds of livestock as are best suited for the land, having regard to the extent and the situation and the natural resources of the land in accordance with standards of cultivation as are hereinafter provided by this Act or any regulation made thereunder, with a view to improving the productivity and maintaining efficient standards of production both as to quantity and quality of the produce.

Duties of owner cultivators or occupiers relating to the forming and management of agricultural land.

34. (1) Without prejudice to the generality of the provisions of section 33, the owner cultivator of any agricultural land shall—

Standards of good management.

- (a) carry out all such duties and obligations in respect of his agricultural land; and

- (b) fulfil all such obligations in respect of maintaining the productivity of the agricultural land of the area, tract or group of holdings within which his land is located,

as are specified in this Act or under any regulations made thereunder.

(2) The owner cultivator or occupier of any agricultural land shall, in addition to such other duties as the Commissioner may in his discretion specify, ensure that—

- (a) only recommended varieties and strains of crops and breeds of livestock are cultivated or reared ;
- (b) the manner in which the agricultural land is being cropped is such as to maintain that land clean and in a good state of cultivation and fertility and in good condition including proper drainage;
- (c) irrigation water is efficiently managed;
- (d) the land is properly maintained in order to ensure the maximum conservation of soil and water;
- (e) the fertility of the soil is improved and maintained by the application of fertilizers or manure in adequate quantities;
- (f) according to the type of agricultural operation undertaken, an efficient standard of management is maintained in the cultivation of crops or the rearing of livestock ;
- (g) the necessary steps are taken to secure and maintain crops and livestock free from diseases and from infestation by insects and other pests;
- (h) the necessary steps are taken for the protection and preservation of growing crops and crops harvested or in the course of being harvested ;
- (i) the necessary steps are taken to minimize losses in both quantity and quality of produce in the processing for market ; and
- (j) the maintenance and repair work is carried out wherever necessary.

(3) The owner cultivator or occupier of any agricultural land shall take the necessary steps to ensure that all his duties and obligations arising from the need for common management of land with other owner cultivators or occupiers over a given area, tract or group of agricultural holdings are properly discharged. Such duties may involve any one or all of the following:—

- (a) the proper timing of agricultural operations;
- (b) the efficient management of irrigation water;
- (c) joint measures for conservation of soil;
- (d) water conservation and drainage ;
- (e) protection against pests and diseases;
- (f) any other collective responsibilities which may be prescribed by regulations under this Act for efficient land use and the improvement of agricultural productivity; and
- (g) ensuring that the prescribed period between the harvesting of any agricultural produce and the marketing thereof, is adhered to.

(4) An owner cultivator or occupier who fails to fulfil the obligations placed on him under subsections (1), (2) or (3) shall be guilty of an offence under this Act.

35. (1) Where the Commissioner is satisfied that any agricultural land is not being cultivated in accordance with the provisions of this Act, the Commissioner may, after giving the owner cultivator or occupier of such agricultural land an opportunity of making representations to him or his authorized representative, by Order (hereinafter referred to as a "Supervision Order") place the owner cultivator or occupier under the Commissioner's supervision for such period as may be specified in such Order.

Order placing owner cultivator or occupier under Commissioner's supervision.

(2) Every Supervision Order shall be sent by registered post to the person to whom it relates:

Provided, however, that where there are several owner cultivators or occupiers of such land and the addresses of such owner cultivators or occupiers cannot be ascertained, the exhibition of such Order in a conspicuous place in or upon the land shall be deemed to be service of the Order on all the owner cultivators and occupiers thereof.

(3) While a Supervision Order is in force any person authorized by the Commissioner in that behalf may—

- (a) at all reasonable times enter upon the land to which the Order relates for the purpose of inspecting and observing the manner in which the land is being cultivated ;
- (b) by notice in writing give any directions to the owner cultivator or occupier of the land in question in order to ensure that such person is acting in accordance with the standards of cultivation laid down in this Act.

(4) A Supervision Order issued under subsection (1) may be revoked by the Commissioner if he is satisfied that the owner cultivator or occupier of the agricultural land is cultivating such land in accordance with the provisions of this Act:

Provided that the revocation of such Order shall not affect the carrying out of any direction given before the revocation of the Order.

(5) Where a Supervision Order is revoked, notice of such revocation shall be served in the same manner as the Supervision Order was served.

Orders of Dispossession.

36. (1) Where the Commissioner is satisfied that the cultivation of the extent of land to which the Supervision Order relates does not show satisfactory improvement within the period specified in such Order the Commissioner shall issue an Order of Dispossession, dispossessing the owner of his right to cultivate the land in respect of

which such Order is made and to the crop from such land for such period as shall be specified in such Order.

(2) The provisions of subsection (2) of section 35 shall apply to the service of the Order of Dispossession made under subsection (t) of this section.

37. (1) Upon an Order of Dispossession being made and served, 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 situated.

Vacation of land referred to in Order of Dispossession.

(2) Where an Agrarian Services Committee comes into possession of any land under the provisions of subsection (1) the Committee may for the purpose of ensuring the efficient cultivation of such land with the approval of the Commissioner:—

- (a) cultivate such extent;
- (b) where the land is a paddy land appoint one or more tenant cultivators for such extent; or
- (c) where the owner is not the occupier of such land, permit the owner to cultivate such land ; or
- (d) lease such land to any suitable person:

Provided, however, that where the occupier of such land is also its owner, such land shall not be handed back to the owner except on payment by him of all expenses incurred on, and improvements effected to, such land by such Committee or by any person to whom such land has been given for cultivation under this subsection.

38. Where any person on whom an Order of Dispossession has been served, fails to vacate the land within the period specified in such Order, the Commissioner shall evict such person under the provisions of section 6.

Eviction of persons failing to vacate land.

PART IV

APPOINTMENT AND POWERS AND DUTIES OF COMMISSIONER OF AGRARIAN SERVICES AND OF HIS DEPUTIES AND ASSISTANTS

Appointment of Commissioner of Agrarian Services and Deputies and Assistants.

39. (1) There may be appointed for the purposes of this Act, a Commissioner of Agrarian Services, in this Act referred to as the Commissioner.

(2) There may be appointed such number of Deputy Commissioners and Assistant Commissioners of Agrarian Services and other officers as may be necessary for the purpose of this Act.

(3) Every Deputy Commissioner may exercise all or any of the powers of the Commissioner under this Act.

(4) Every Assistant Commissioner may exercise all or any of the powers of the Commissioner under this Act within the area to which such Assistant Commissioner is appointed.

(5) Every Deputy Commissioner and every Assistant Commissioner shall, in the exercise of the powers and the performance of his duties under this Act, be subject to the direction and control of the Commissioner.

Commissioner to issue identity cards.

40. (1) The Commissioner shall in the prescribed manner cause to be made the necessary arrangements for the issue of identity cards to owner cultivators or occupiers of agricultural lands and for the revision of such cards.

(2) In the issue of identity cards reference shall be made *inter alia* to the last certified Agricultural Lands Register and entries maintained in such identity cards under the provisions of this section shall be *prima facie* evidence of the matters stated therein.

Commissioner to be subject to general direction of the Minister.

41. The Commissioner shall, in the exercise of his powers and the performance of his duties under this Act which are solely administrative be subject to the general direction of the Minister.

Commissioner to make rules.

42. (1) The Commissioner or any other person generally or specially authorized by him in that behalf may summon a meeting of the owner cultivators and occupiers of agricultural land within such area as may be determined by him for the purpose of making rules relating to—

- (a) paddy cultivation or any other form of cultivation;
- (b) the enforcement of established customs affecting such cultivation;
- (c) the proper timing of agricultural operations;
- (d) the efficient management of irrigation water;
- (e) joint measures for conservation of soil and protection against pests and diseases and trespass by animals; and
- (f) any other collective responsibilities imposed on owner cultivators and occupiers of agricultural land for the efficient use of such land and for the improvement of productivity.

(2) Where any meeting is to be held under the provisions of this section the Commissioner or any other person generally or specially authorized by him in that behalf shall cause notice being the longest notice which in his opinion is reasonable in the circumstances to be given of the time and place of the meeting and its objects.

(3) The notice referred to in subsection (2) shall be given by exhibiting written notices in suitable places within the area or tract within which such meeting is to be held and in such other manner as may appear adequate for giving publicity thereto.

(4) The Commissioner or any other person generally or specially authorized by him in that behalf and referred to by name or by office (hereinafter referred to as the "presiding officer") shall preside at every meeting held under the provisions of this section.

(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 third or twenty-five *per centum* of the total number of owner cultivators or occupiers of agricultural land referred to in subsection (1).

(6) Any rule made at a meeting under the provisions of this section shall be adopted by those present at the meeting and shall thereafter be binding on the owner cultivators and occupiers.

(7) If at any meeting held under the provisions of this section any question arises as to the right of any person to vote the presiding officer may then and there decide the question and his decision shall be entered in the minutes and shall be final and conclusive.

(8) Full minutes shall be made of the proceedings of every such meeting and shall be signed by the presiding officer and shall be conclusive evidence of the contents thereof.

(9) Any owner cultivator or occupier of agricultural land who contravenes any of the decisions made in accordance with the provisions of this section shall be guilty of an offence.

(10) At a meeting convened under the provisions of this section the owner cultivators or occupiers of agricultural land may select from among themselves in such manner as may be prescribed, persons to assist the Cultivation Officer in matters relating to the protection of irrigation works and for the conservation of water supplied therefrom and any other matters relating to cultivation as may arise from time to time and any person so selected shall be entitled to such remuneration as may be prescribed.

(11) Any person so selected shall have, subject to the control and direction of the Commissioner or any person authorized in that behalf by the Commissioner, the power to order any owner or occupier of agricultural land to take steps as he may deem necessary regarding the collective responsibilities of such owners 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.

PART V

AGRARIAN SERVICES COMMITTEES

43. (1) There shall be an Agrarian Services Committee and an Agrarian Services Centre for such area as may be determined by the Commissioner.

Agrarian Services Committees.

(2) Every Agrarian Services Committee shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The members of an Agrarian Services Committee shall be appointed by the Commissioner and shall consist of not more than fourteen persons of whom not more than eight shall be public officers or employees of public corporations and statutory bodies and of whom not more than six shall be owner cultivators or occupiers of agricultural land within the area of such Committee from among the persons selected under the provisions of subsection (10) of section 42 and a member of such Committee shall be entitled to such remuneration as may be prescribed.

(4) The term of office of a member of an Agrarian Services Committee shall be three years, but a member who ceases to hold office by effluxion of time shall be eligible for reappointment.

(5) Any member of an Agrarian Services Committee may resign office by letter addressed to the Commissioner.

(6) Where a member of an Agrarian Services Committee is temporarily unable to discharge the duties of his office on account of ill health, absence from Sri Lanka or any other cause, the Commissioner may appoint some other person to act as a member in his place.

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

(8) The members of an Agrarian Services Committee shall annually elect a member from among themselves to preside at meetings of the Committee.

(9) No act or proceeding of an Agrarian Services Committee shall be deemed to be invalid by reason only of the existence of any vacancy among its members.

(10) Subject to the other provisions of this Act, an Agrarian Services Committee shall have the power to fix and regulate its own procedure including the power to determine the number of members necessary to form a quorum.

(11) The Commissioner may, at any time he considers it expedient or necessary so to do, convene and preside at a meeting of an Agrarian Services Committee.

Secretary.

44. The Commissioner shall appoint a member of an Agrarian Services Committee as Secretary of the Committee and the Secretary so appointed shall be the chief executive officer of such Committee.

Register of agricultural lands.

45. (1) Every Agrarian Services Committee shall in the prescribed manner prepare, revise and maintain a register of agricultural lands within the area of authority of such Committee :

Provided, however, that the first register in respect of the agricultural lands lying within the area of authority of each such Committee shall be prepared and certified by the Commissioner.

(2) There shall be specified in such register the name and extent of each

agricultural land, the name of the landlord and tenant cultivator or owner cultivator, as the case may be, and such other particulars as may be required by the Commissioner.

(3) Any entry in the register which has been prepared or revised under the provisions of this section and which is for the time being in force shall be admissible in evidence and shall be prima facie evidence of the facts stated therein.

(4) Regulations may be made—

(a) in respect of the procedure to be followed in the preparation and revision of the register referred to in subsection (1);

(b) providing for any person who claims to be entitled under this Act to have his name entered in such register and whose name is not so entered to apply to the Agrarian Services Committee to have his name entered therein;

(c) providing for any person whose name is entered in such register and who objects to the name of any other person appearing therein to apply to the Agrarian Services Committee to have the name of such other person removed from such register;

(d) in respect of the procedure to be followed by the Agrarian Services Committee in the determination of claims and objections ; and

(e) providing for appeals to the Commissioner from the determination of an Agrarian Services Committee on any claim or objection made to such Committee.

46. (1) Every Agrarian Services Committee shall within its area of authority co-ordinate the agricultural activities and implement the agricultural policies of the Government and shall be subject to the control and direction of the Commissioner.

Functions and powers of the Agrarian Services Committees.

(2) Without prejudice to the generality of the provisions of subsection (1) an Agrarian Services Committee shall have power—

- (a) to acquire, hold, take or give on lease, or hire, mortgage, pledge, sell or otherwise dispose of any movable or immovable property;
- (b) to impose on and recover from an owner cultivator or occupier of agricultural land an acreage levy not exceeding six rupees per acre per year and any other charges levied for services rendered under this Act •
- (c) to utilize the moneys of such Committee to defray the expenses incurred in the exercise or performance of its powers and duties and for such purpose as may be prescribed;
- (d) to maintain and operate an account in such bank as may be determined by such Commissioner.

(3) Every such Committee shall in the exercise of its powers and the performance of its duties be subject to the general directions of the Commissioner or of such delegated authority as may be prescribed.

(4) It shall be the duty of the Secretary of each Agrarian Services Committee to maintain the accounts of such Committee in such form and manner as the Commissioner may, from time to time, direct. Such accounts shall be audited annually by the Auditor-General.

Procedure for recovery of acreage levy.

47. (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 to pay such levy within such periods as shall be specified in such notice.

(2) Where an Agrarian Services Committee is satisfied after due inquiry that a person to whom a written notice has been given has failed to pay the amount specified in such notice within the time given therefor, such amount shall on application by an officer authorized in that behalf by such

Committee 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 is situated be recovered in like manner as a fine imposed by such court.

(3) For the purposes of subsection (2) a certificate under the hand of the officer authorized in that behalf by the Committee to the effect that the sum specified therein is due to the Committee from the person named in the certificate shall be conclusive proof that such sum is due to the Committee from such person.

48. Where an Agrarian Services Committee after being directed by the Commissioner to exercise, perform or discharge any power, duty or function conferred or imposed on or assigned to such Committee by or under this Act or by any regulations made thereunder, fails to do so within the time specified in the direction, the Commissioner may exercise, perform or discharge such power, duty or function, and any act so done by the Commissioner under the provisions of this section shall be deemed to have been done by such Committee. Powers of the Commissioner.

49. Each Agrarian Services Committee shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly. Agrarian Services Committee deemed to be a scheduled institution within the meaning of the Bribery Act.

50. All officers and servants of an Agrarian Services Committee shall be deemed to be public servants within the meaning and for the purposes of the Penal Code. Officers and servants of an Agrarian Services Committee deemed to be public servants.

51. It shall be lawful for an Agrarian Services Committee, subject to the approval of the Commissioner to borrow money from any approved lending institution such sum or sums of money as may be necessary for or conducive or incidental to any of the functions of such Committee- Power to borrow money.

PART VI

CULTIVATION OFFICERS

Appointment of servants or agents.

52. (1) An Agrarian Services Committee may appoint such servants or agents as it deems fit for the exercise of its powers and the discharge of its duties.

(2) All servants and agents appointed by any Agricultural Productivity Committee established under the Agricultural Productivity Law, No. 2 of 1972,* shall cease to hold office from the date of the constitution under this Act of an Agrarian Services Committee in its place.

(3) All such servants and agents specified in subsection (2) shall be paid out of the Agrarian Services Fund established under this Act, and a sum of money not exceeding five hundred rupees or three months' salary, whichever is greater, shall be paid to each such servant or agent, provided that such servant or agent has returned such books and documents as were in his custody, belonging to the Agricultural Productivity Committee in which he held office, and is not employed by an Agrarian Services Committee.

Agrarian Services Committee exempt from stamp duty and fees.

53. Every Agrarian Services Committee shall be exempt from—

- (a) any stamp duty chargeable under any written law in respect of any instrument executed by or on behalf of, or in favour of, an Agrarian Services Committee or in respect of any document filed in a court, in cases where but for the exemption granted by this section the Agrarian Services Committee would be liable to pay the duty chargeable in respect of such instrument or document, and
- (b) any fees payable under the law for the time being in force relating to the registration of documents.

Exemption from tax.

54. Every Agrarian Services Committee shall be exempt from the payment of any tax on the income or profits made by such Committee under the provisions of the Inland Revenue Act (No. 28 of 1979).

Appointment of Cultivation Officers and their powers and functions.

55. (1) There may be appointed such number of Cultivation Officers as may be necessary for the purposes of this Act, and the officers so appointed shall be subject to the general control and direction of the Commissioner.

(2) Every Cultivation Officer shall within the area of his authority—

- (a) attend to all matters connected with the cultivation of all agricultural lands irrespective of whether such lands are rainfed or fed by major or minor irrigation works;
- (b) attend to all matters relating to minor irrigation works and the maintenance of minor irrigation works and to prevent as far as practicable any act or omission which is contrary to any rule in force relating to irrigation or cultivation rights or to established customs relating thereto ; and
- (c) take action in such manner as may be prescribed in respect of trespass by animals on agricultural lands and irrigation works.

(3) Where any act is committed or any omission made by any person within the area of authority of any Cultivation Officer contrary to any established custom or any rule relating to irrigation or cultivation whereby damage may be caused to the owner cultivator or occupier of agricultural land within that area of authority the Cultivation Officer shall, if the act or omission be of such a nature as to call for prompt action to prevent damage, take such steps and incur such expenditure as may be necessary in the circumstances and shall forthwith make a report on the steps taken and expenditure incurred, if any, to the Commissioner within whose area of authority such act or omission has occurred.

* Repealed by this Act.

(4) Any person in consequence of whose act or omission any expenditure was incurred shall be liable to pay such sum as was incurred to the Commissioner, and where such person fails to pay such sum the Commissioner may on his being satisfied after an inquiry at which such person is given the opportunity of being heard that such expenditure was properly incurred, sign a certificate setting out the name of the person in consequence of whose act or omission such expenditure was incurred, the amount thereof, the nature of the act or omission and the name of the officer by whom the expenditure was incurred and cause such certificate to be delivered to such person,

(5) Where any person to whom a certificate referred to in subsection (4) has been delivered fails to pay the amount due from him within ten days from the delivery to him of the certificate, the Commissioner may proceed to recover such amount by filing a certificate in the Magistrate's Court within whose jurisdiction the land in respect of which the amount recoverable lies, to the effect that the sum mentioned in the certificate is due from the person mentioned therein and such sum shall be recovered from such person in like manner as a fine imposed by such court.

(6) For the purposes of subsection (5) a certificate issued under the hand of the Commissioner shall be conclusive proof that the amount referred to therein is due from the person mentioned in the certificate.

(d) wilfully and wrongfully draws off or converts to his own use any such water,

shall be guilty of an offence under this Act.

(2) Every person who without lawful cause resists, or obstructs the Commissioner or any person authorized in that behalf by the Commissioner in the lawful discharge of any duty imposed upon him by this Act shall be guilty of an offence.

PART VII

GENERAL

57. (1) Where a complaint is made to the Commissioner by any owner cultivator or occupier of agricultural land that any person is interfering with or attempting to interfere with the cultivation rights of such owner cultivator or occupier, the Commissioner may, if he is satisfied that such interference or attempted interference will result in damage or loss of crop or livestock, issue an order on such person, cultivator or occupier requiring him to comply with such direction as may be necessary for the protection of such rights and specified in such order: Interference with cultivation rights of owner cultivator or occupier.

Provided, however, that the order issued under subsection (1) shall not prejudice the right, title or interest of such person, cultivator or occupier to such land, crop or livestock in respect of which such order is made.

56. (1) Every person who—

- (a) wilfully and mischievously blocks up, obstructs or encroaches upon or causes to be in any way blocked up, obstructed or encroached upon any channel or watercourse comprised in any minor irrigation work ; or
- (b) wilfully and mischievously cuts the bund, bank, or any part of any minor irrigation work ; or
- (c) wilfully and mischievously causes waste of water conserved by any minor irrigation work ; or

(2) For the purpose of ensuring compliance with the provisions of subsection (1) the Commissioner may seek the assistance of a peace officer within whose area of authority such agricultural land in respect of which such order is made lies, and it shall be the duty of such peace officer to render such assistance and the peace officer may for such purpose use such force as may be necessary to ensure compliance of such order.

(3) An order under subsection (1) shall be binding on the persons in respect of whom it is made until set aside by a Court of competent jurisdiction.

offences and penalties relating to irrigation.

(4) Any person who fails to comply with an order under subsection (1) shall be guilty of an offence under this Act.

development of Agrarian Services Centres. The Commissioner shall be responsible for the administration of the Fund.

Penalties.

58. Every person who is guilty of an offence under this Act or any regulation made thereunder shall on conviction after trial before a Magistrate be liable to imprisonment of either description for a period not exceeding six months or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

(4) The accounts of the Fund shall be maintained in such form and shall contain such particulars as the Commissioner may, with the concurrence of the Minister, from time to time specify.

(5) The accounts of the Fund for each financial year shall be audited by the Auditor-General.

No suit to lie against members of Agrarian Services Committee, &c.

59. No suit or prosecution shall lie against any member of an Agrarian Services Committee appointed by or under this Act or against any servant or agent of such Committee for any act which in good faith is done or purported to be done by him under this Act or under any regulations made thereunder.

(6) The financial year of the fund shall be the period of twelve months commencing on the first day of January each year.

61. Where the Minister certifies by Notification published in the Gazette that it is necessary that any agricultural land specified in the Notification should be acquired for any of the purposes of this Act, that land shall, for the purpose of the application of the Land Acquisition Act, be deemed to be required for a public purpose and may be acquired under that Act:

Compulsory acquisition of agricultural land.

Agrarian Services Fund.

60. (1) There shall be established a fund to be known as the Agrarian Services Fund.

- (2) There shall be paid into the Fund—
 - (a) all fines imposed by a court for any offence under this Act;
 - (b) all sums required under this or any other law to be paid into the Fund ;
 - (c) all such sums of money as may be voted from time to time by Parliament to the Fund ;
 - (d) any such sums of money as may be paid into the fund out of the Consolidated Fund;
 - (e) all such sums of money as the Commissioner may from time to time require to be paid into the Fund;
 - (f) all sums of money collected as acreage levy under the provisions of paragraph (b) of subsection (2) of section 46.

Provided that notwithstanding anything to the contrary in that Act the amount of compensation to be paid for the acquisition of that land under that Act shall be equal to the product of the multiplication of the annual rental value of that land computed in the prescribed manner.

62. (1) Except with the written permission of the Commissioner given under such conditions as he may deem necessary no person shall use an extent of paddy land for any purpose other than cultivation in accordance with the provisions of subsection (2).

Purpose for which a paddy land may be used.

(2) An extent of paddy land may be cultivated—

- (a) with paddy; or
- (b) at any time between paddy cultivation season with food crops other than paddy, or with fodder crops; or
- (c) with any other crop if the cultivation of such crop on such extent is authorized by a permit issued by the

Commissioner in his discretion, upon written application made in that behalf by the cultivator of that extent.

(3) Where an extent of paddy land is cultivated under the provisions of paragraph (A) or paragraph (c) of subsection (2) the rent payable by the cultivator to the landlord shall be such rent as may be prescribed, and the provisions of section 21 shall apply accordingly.

(4) If any extent of paddy land—

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

(b) is cultivated by the cultivator thereof otherwise than in accordance with the provisions 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 five thousand rupees and in default of payment of the fine, to imprisonment of either description for a term not exceeding one month, and where such offence is continued after conviction that person or that cultivator, as the case may be, shall be liable to a fine of fifty rupees for each day in respect of which such offence is continued after conviction.

(5) In any prosecution of a person for an offence under this section, the burden of proving that he had obtained the permission of the Commissioner for doing the act which constitutes the offence shall be on such person.

Hearing of appeals pending before Board of Review under the Agricultural Lands Law, No. 42 of 1973.

63. (1) Where on the date of operation of this Act there is any appeal pending before the Board of Review in terms of the provisions of section 53 of the Agricultural Lands Law, No. 42 of 1973, such appeal shall be heard and concluded by an officer specially appointed for the purpose.

(2) Where an officer appointed under subsection (1), vacates his office by reason of death, resignation, removal from office, absence abroad or illness, there shall be appointed a person to succeed him for the balance period of his term of office.

(3) An officer appointed under the provisions of subsection (1) shall, unless he vacates office, hold office for a period of two years:

Provided that—

(a) an officer appointed in place of an officer who has died, resigned or has been removed from office under subsection (2) shall hold office for the unexpired term of office of the last-mentioned person; and

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

(4) An officer vacating office by effluxion of time shall be eligible for reappointment.

(5) Every officer so appointed shall in respect of every appeal heard by him keep a record of all such proceedings as relates to that appeal.

(6) An officer may examine any witness on oath or if he thinks fit so to do may summon any person to appear before him or to produce any document which may in his opinion be relevant.

(7) If any person upon whom a summons has been issued—

(a) fails without reasonable cause to appear before such officer 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 such 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.

(8) An officer may on any appeal made under this section, confirm or vary the determination or decision from which such appeal is made, and the decision of such officer on such appeal shall be final.

Persons authorized to prosecute.

64. In any prosecution for an offence under this Act in addition to the persons empowered to prosecute under the law for the time being in force in respect of criminal procedure, the Commissioner, or any person authorized in that behalf by the Commissioner, shall be entitled to conduct the prosecution.

Commissioner to have powers of a District Court.

65. The Commissioner shall, for the purpose of hearing and deciding any dispute referred to him under this Act, have all the powers of a District Court—

- (a) to summon and compel the attendance of witnesses;
- (b) to compel the production of documents; and
- (c) to administer any oath or affirmation to witnesses.

Regulations.

66. (1) The Minister may make regulations in respect of all matters which are stated or required by this Act to be prescribed or for which regulations are required by this Act to be made.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or upon such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder. Notification of the date on which any

regulation is deemed to be rescinded shall be published in the Gazette.

67. (1) The Agricultural Productivity Law, No. 2 of 1972, and the Agricultural Lands Law, No 42 of 1973, are hereby repealed.

Repeals and savings.

(2) Notwithstanding the repeal of the aforesaid Laws—

- (a) all moneys lying to the credit of the Agricultural Productivity Fund established under section 44 of the Agricultural Productivity Law, No. 2 of 1972, and all moneys lying to the credit of the Food Production Fund established under the provisions of section 14 of the Food Production (Estates) Act shall be transferred to the Agrarian Services Fund established under this Act;
- (b) the assets and liabilities of the Agricultural Productivity Committees established under the Agricultural Productivity Law, No. 2 of 1972, and the Cultivation Committees established under the Agricultural Lands Law, No. 42 of 1973, shall be transferred to the Agrarian Services Committees established under this Act;
- (c) all Agricultural Productivity Committees established under the Agricultural Productivity Law, No. 2 of 1972, shall continue to function until Agrarian Services Committees are constituted under this Act;
- (d) all proceedings under section 14 of the Paddy Lands Act, No. 1 of 1958,* before the Commissioner of Agrarian Services which were pending under the provisions of the Agricultural Lands Law, No. 42 of 1973, before an Agricultural Tribunal on the date prior to the date of commencement of this Act, shall be deemed to be null and void;
- (e) and notwithstanding anything to the contrary in the Prescription Ordinance all claims for damages

* Repealed by Law No. 42 of 1973, which in turn was repealed by this Act.

accruing to tenant cultivators under section 4 (7A) of the Paddy Lands Act, No. 1 of 1958,* and under section 3 (9) of the Agricultural Lands Law, No. 42 of 1973, shall be deemed to be claims accruing to such tenants under the provisions of this Act and shall be recoverable in the manner provided under the corresponding provisions of this Act;

- (f) all proceedings pending before an Agricultural Tribunal under the provisions of the Agricultural Productivity Law, No. 2 of 1972, and the Agricultural Lands Law, No. 42 of 1973, on the date prior to the date of commencement of this Act shall be deemed to be proceedings before the Commissioner under the provisions of this Act and shall accordingly be continued and concluded before such Commissioner under the provisions of this Act;
- (g) all proceedings which have been commenced and concluded before an Agricultural Tribunal under the provisions of the Agricultural Productivity Law, No. 2 of 1972, or the Agricultural Lands Law, No. 42 of 1973, and in respect of which no appeals have been made to the Supreme Court under the provisions of the aforesaid Laws or where appeals have been made and dismissed and where no steps for enforcement of orders made in such proceedings have been taken in the Magistrates' Courts under the provisions of the aforesaid Laws, such proceedings shall be deemed to be proceedings under the provisions of this Act and shall be enforced in accordance with the corresponding provisions of this Act;
- (h) all proceedings before the Magistrates' Courts under section 21 of the Paddy Lands Act, No. 1 of

1958,* which were pending or which had been instituted and withdrawn on any ground whatsoever on a date prior to the date of commencement of the Agricultural Lands Law, No. 42 of 1973, shall be deemed not to have abated or to have been discontinued or in any way prejudicially affected by reason of the repeal of the said Act or Law and accordingly all such proceedings shall be continued and concluded under the corresponding provisions of this Act;

- (i) all proceedings pending in any court under the provisions of the Agricultural Productivity Law, No. 2 of 1972 or the Agricultural Lands Law, No. 42 of 1973, on the date prior to the date of commencement of this Act shall be heard and concluded under the provisions of this Act;
- (j) every regulation made under the Agricultural Productivity Law, No. 2 of 1972, and the Agricultural Lands Law, No. 42 of 1973, and in force on the date prior to the date of commencement of this Act and which is not inconsistent with the provisions of this Act shall be deemed to be a regulation made under this Act and may accordingly be amended, added to or rescinded by regulations made under this Act.

68. In this Act unless the context otherwise requires— Interpretation.

" agriculture " includes—

- (i) the growing of rice, field crops, spices and condiments, industrial crops, vegetables, fruits, flowers, pasture and fodder;
- (ii) dairy farming, livestock rearing and breeding;
- (iii) plant and fruit nurseries ;

* Repealed by Law No. 42 of 1973, which in turn was repealed by this Act.

" agricultural activity " means any activity involving agriculture and includes the use of machinery and equipment used in such activity and any activity involving minor irrigation work;

" agricultural land " means land used or capable of being used for agriculture within the meaning of this Act and shall include private lands, lands alienated under the Land Development Ordinance or the State Lands Ordinance or any other enactment;

" citizen of Sri Lanka " means an individual who is a citizen of Sri Lanka under any law for the time being in force relating to citizenship;

" construction " with reference to any irrigation work includes any improvement or extension of any irrigation work, or the repair or restoration of any abandoned irrigation work, or (subject to the definition of " maintenance " hereinafter contained) any operation for the protection of any irrigation work, or the irrigable area thereunder, or of any part of such work or area;

" cultivator " with reference to an extent of paddy land means any person, other than an Agrarian Services Committee, who by himself or by any member of his family, or jointly with any other person, carries out on such extent:—

(a) two or more of the operations of ploughing, sowing and reaping; and

(b) the operation of tending or watching the crop in each season during which paddy is cultivated on such extent;

" evict " means in relation to a tenant cultivator, to deprive by using direct or indirect methods that tenant cultivator of his right to use,

occupy and cultivate the whole or any part of the extent of paddy land let to him;

" irrigation work " includes—

(a) any tank, bund, anicut, ela, channel, distributory, field channel or watercourse comprised in or incidental or ancillary to the irrigation work;

(b) any structure, road, bridge, sluice, gate or other engineering work comprised in, or incidental or ancillary to the construction or maintenance of the irrigation work;

(c) any structure, bund, sluice or other engineering work erected for the purpose of draining any cultivated area or of preventing or regulating the flow of salt water into or out of any such area or of protecting such area from floods;

" landlord " with reference to an extent of paddy land means the person other than an owner cultivator, who will for the time being be entitled to the rent in respect of such extent if it were let on rent to any person, and includes any tenant of such extent who lets it to any subtenant;

" let " with reference to any extent of paddy land, means to permit any person, under an oral or written agreement, to occupy and use such extent in consideration of the performance of any service by him or the payment of rent consisting of a sum of money or a share of the produce from such extent;

" loan " means any loan, advance or overdraft together with interest thereon;

" maintenance " with reference to any irrigation work includes any operation for the protection of any existing irrigation work or the irrigable area thereunder;

" member of the family " with reference to any person, means the spouse or a son or daughter of that person and failing such spouse a son or daughter of that person or a parent, brother or sister of that person provided such person is a person whose main occupation is cultivation and whose only source of income is derived from such extent of paddy land ;

" minor irrigation work " means an irrigation work serving up to two hundred acres of agricultural land ;

" occupier " shall mean the person for the time being entitled to the use and occupation of agricultural land by virtue of his being the lessee or usufructuary mortgagee and shall include persons in use and occupation of agricultural lands alienated under the Land Development Ordinance, the State Lands Ordinance or any other enactment, and includes a tenant cultivator within the meaning of this Act;

" owner cultivator " with reference to any extent of paddy land means the person who is the owner or usufructuary mortgagee of such extent and who is the cultivator of the entirety of such extent and in the case of an extent of paddy land which has been alienated under the Land Development Ordinance, the

person who derives title to such extent and who is the cultivator of the entirety of such extent shall be deemed to be the owner cultivator of such extent;

" paddy land " means land which is cultivated with paddy or is prepared for the cultivation of paddy or which, having at any time previously been cultivated with paddy, is suitable for the cultivation of paddy, and includes such other land adjoining or appertaining to it as may be used by the cultivator for a threshing floor or for constructing his dwelling house, but does not include chena land or any land which, with the permission of the Commissioner is used for any purpose other than cultivation in accordance with the provisions of this Act;

" peace officer " has the same meaning as in the Code of Criminal Procedure Act;

" prescribed bank " means any bank that may be prescribed;

" prescribed " means prescribed by this Act or by any regulation made thereunder.

" the date of commencement of this Act " or " the date of operation of this Act " means the 25th day of September, 1979.

CHAPTER 461

ALL-CEYLON YOUNG MEN'S MUSLIM ASSOCIATION

Act No. 31 of 1968. AN ACT TO INCORPORATE THE ALL-CEYLON YOUNG MEN'S MUSLIM ASSOCIATION CONFERENCE.

[22nd June, 1968.]

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| Short title. | 1. This Act may be cited as the All-Ceylon Young Men's Muslim Association Conference (Incorporation) Act. | (g) to maintain contacts with similar institutions in Sri Lanka and abroad, <i>inter alia</i> , by subscribing to magazines and periodicals, inviting delegates to participate in annual conferences and arranging lectures and discourses by prominent personalities; |
| Incorporation of the Ceylon Young Men's Muslim Association Conference. | 2. The members for the time being of the Conference known as the All-Ceylon Young Men's Muslim Association Conference (hereinafter referred to as "the Conference") shall be a body corporate (hereinafter referred to as "the Corporation") with perpetual succession, a common seal, and the name "The All-Ceylon Young Men's Muslim Association Conference". The Corporation may sue and be sued in such name. | (h) to collect and disseminate all such information that may be considered useful for all Young Men's Muslim Associations in Sri Lanka, and to advise such Associations in implementing the recommendations and proposals that may be contained in such information; |
| General Objects of the Corporation. | 3. The general objects of the Corporation shall be— | (i) to arrange annual conferences to be held in Colombo or in rotation in other parts in Sri Lanka, where delegates may discuss matters of common interest, exchange views and establish contacts with each other; |
| | (a) to aim at developing a generation of men worthy of the highest traditions of Islam and capable of the highest deeds to serve their country in every branch of modern life; | (j) to foster inter-communal amity; |
| | (b) to spread the virtues of Islam and its culture; | (k) to arrange sports meets, picnics, camps and educational tours in Sri Lanka and abroad; |
| | (c) to bring about an Islamic synthesis of the culture of the East and the West by accepting what is good in them; | (l) to publish an annual journal of the Conference; |
| | (d) to promote the cause of education generally and of adult education in particular; | (m) to initiate, assist, co-ordinate and conduct youth activities; |
| | (e) to render assistance to all Young Men's Muslim Associations in Sri Lanka in all matters of common interest; | (n) to disseminate information and exchange ideas regularly for the benefit of the general membership; and |
| | (f) to arrange inter-Young Men's Muslim Association debates, oratorical contests, games and other activities; | |

(o) to take all other steps that are necessary and desirable for the promotion of the above-mentioned aims and objects.

(b) In the case of special members, past Presidents, past General Secretaries, and office-bearers and members of the Executive Committee—

The affairs of the Corporation to be administered by an Executive Committee.

4. (1) The affairs of the Corporation shall, subject to the rules for the time being of the Corporation, be administered by an Executive Committee which shall consist of the office-bearers of the Corporation, elected at the annual general meeting of the Corporation, and all persons who were formerly Presidents and General Secretaries of the Conference,

(2) The Executive Committee may delegate any of its functions to one or more Standing Committees or Sub-Committees.

Register of members.

5. (1) The General Secretary of the Corporation shall keep a register of the members of the Corporation.

(2) The register of the members of the Corporation shall contain the following particulars;—

(a) In the case of affiliated members of the Corporation—

- (i) the name and full postal address of each Association which is an affiliated member;
- (ii) the date of inception of such Association;
- (iii) the date on which the first annual general meeting of such Association was held ;
- (iv) the date on which such Association was enrolled as an affiliated member; and
- (v) the date on which such Association ceased to be an affiliated member;

Provided, however, that in the case of affiliated members existing at the commencement of this Act, the requirements of sub-paragraphs (ii), (iii) and (iv) may be dispensed with.

(i) the name, full postal address and rank, profession or occupation of each such person;

(ii) the date on which such person was elected as a member; and

(iii) the date on which such person ceased to be a member.

6. (1) The Corporation may, by a vote of two-thirds of the members present and voting at a general meeting of the Corporation, make rules for admission to and removal from, membership of the Corporation, for the performance of the duties of the office-bearers and other members of the Executive Committee of the Corporation, for the procedure in the transaction of business, and otherwise generally for the management of the affairs of the Corporation and the accomplishment of its objects.

(2) Any of the rules* of the Corporation, excepting the rules appearing under Articles 1 and 2 in Chapter I of those rules, may be amended or rescinded by a vote of two-thirds of the members present and voting at a general meeting of the Corporation, provided that such amendment or rescission shall have been previously approved by the Executive Committee.

(3) Subject to the provisions of subsections (1) and (2) of this section, the rules set out in the Schedule* to this Act shall be the rules of the Corporation.

7. All debts of the Conference existing at the commencement of this Act shall be paid by the Corporation and all debts due and fees, subscriptions and grants payable to the Conference shall be paid to the Corporation. Liabilities of, be and debts due conference.

8. The Corporation may acquire and hold any movable or immovable property by right of purchase, grant, gift, The Corporation may hold property.

* Schedules omitted.—Private enactment.

testamentary disposition or otherwise and, subject to the rules for the time being of the Corporation, may sell, mortgage, lease, exchange or otherwise dispose of any movable or immovable property of the Corporation.

instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

10. The General Secretary of the Corporation shall have the custody of the seal of the Corporation. Custody of the seal of the Corporation.

Seal of the Corporation and the procedure for affixing it

9. The seal of the Corporation may be altered at the pleasure of the Corporation. The seal shall not be affixed to any instrument whatsoever except in the presence of two office-bearers of the Corporation one of whom shall be the President or in his absence a Vice-President, who shall sign their names on the

11. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other person, except such as are mentioned in this Act and those claiming by, from, or under them. Saving of the rights of the Republic, etc.

CHAPTER 36

BRIBERY

Acts AN ACT TO PROVIDE FOR THE PREVENTION AND PUNISHMENT OF BRIBERY AND TO MAKE
 Nos.11 of 1954, CONSEQUENTIAL PROVISIONS RELATING TO THE OPERATION OF OTHER WRITTEN
 17 of 1956, LAW-
 40 of 1958,-
 2 of 1965,
 18 of 1965,

Laws
 Nos. 8 of 1973,
 38 of 1974,
 11 of 1976,

Act
 No. 9 of 1980.

[1st March. 1954.]

Short title. 1. This Act may be cited as the Bribery Act.

Effect of this Act on operation of other written law. 2. (1) Every provision of this Act which may be in conflict or inconsistent with anything in the Ceylon (Constitution) Order in Council, 1946,* shall for all purposes and in all respects be as valid and effectual as though that provision were in an Act for the amendment of that Order in Council enacted by Parliament after compliance with the requirement imposed by the proviso of subsection (4) of section 29 of that Order in Council.

(2) Where the provisions of this Act are in conflict or are inconsistent with any other written law, this Act shall prevail.

Provided, however, that the Bribery Commissioner shall not, without the consent of the Speaker of Parliament, hold an investigation of an allegation of bribery against a Member of Parliament;

Provided, further, that the Bribery Commissioner shall not, without the consent of the Judicial Service Commission, hold an investigation of an allegation of bribery against a judicial officer.

(2) The Bribery Commissioner, or any officer authorized by the Bribery Commissioner under subsection (1), may, in making an investigation under this section, direct in writing any person who appears to be acquainted with any facts relevant to the matters under investigation—

PART I

[§3,40 of 1958.] INVESTIGATION OF ALLEGATIONS OF, AND PROSECUTION FOR, BRIBERY

Appointment of Bribery Commissioner and other officers. [§4, 40 of 1958] 2A. There shall be appointed, for the purposes of this Act, a Bribery Commissioner and such other officers as may be necessary.

Allegations of bribery to be investigated by Bribery Commissioner or authorized officer. [§ 5,40 of 1958.] [§ 2, 2 of 1965.] 3. (1) The Bribery Commissioner, or any officer authorized in that behalf by and acting under the control of the Bribery Commissioner, is hereby empowered, notwithstanding anything in any other written law to the contrary, to direct and conduct the investigation of all allegations of bribery which are made to, or come to the knowledge of, the Bribery Commissioner:

- (a) to appear before the Bribery Commissioner or that officer, as the case may be, and to answer orally on oath or affirmation any questions relevant to such matters;
- (b) to state such facts by means of an affidavit; and
- (c) to produce, or deliver or furnish a [§5,40 of 1958.] certified copy of, any such document in his possession or under his control as may be relevant to such matters.

Repealed by the Constitution of Sri Lanka, 1972, which itself has been repealed by the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978.

Power to obtain information and assistance. [§2,9 of 1980.]

4. (1) The Bribery Commissioner may from time to time in the course of an investigation of an allegation of bribery against any person or after the commencement of a prosecution of any person for bribery notwithstanding anything in any other written law to the contrary by written notice—

(a) require such person to furnish a sworn statement in writing—

- (i) enumerating all movable or immovable property owned or possessed at any time, or at such time as may be specified by the Bribery Commissioner, by such person and by the spouse, sons and daughters of such person and specifying the date on which each of the properties enumerated was acquired whether by way of purchase, gift, bequest, inheritance or otherwise;
- (ii) containing particulars of such other matters which in the opinion of the Bribery Commissioner are relevant to the investigation;

(b) require any other person to furnish a sworn statement in writing—

- (i) enumerating all movable or immovable property owned or possessed at any time or at such time as may be specified by the Bribery Commissioner by such person where the Bribery Commissioner has reasonable grounds to believe that such information can assist the investigation;
- (ii) containing particulars of such other matters which in the opinion of the Bribery Commissioner are relevant to the investigation;

(c) require the manager of any bank in Sri Lanka to produce, within such time as may be specified in the notice, any book, document or cheque of the bank containing entries relating to the account of such person or of the spouse or a son or daughter of such person, or to furnish as so specified, certified copies of such entries;

(d) require the Commissioner-General of Inland Revenue to furnish, as specified in the notice, all information available to such Commissioner-General relating to the affairs of such person or of the spouse or a son or daughter of such person and to produce or furnish, as specified in the notice any document or a certified copy of any document relating to such person, spouse, son or daughter which is in the possession OF under the control of such ., Commissioner-General; and

(e) require the person in charge of any department, office or establishment of the Government, or the Mayor, Chairman, Governor, or chief executive officer of any local authority or scheduled institution, or of the governing body of any scheduled institution, to produce or furnish, as specified in the notice, any document or a certified copy of any document which is in his possession or under his control.

(2) The Bribery Commissioner shall treat all information obtained by him under subsection (1) with the strictest secrecy and shall not divulge such information to any person other than a court, a commission of inquiry, an accused person, any attorney-at-law or other person defending an accused person, or an officer engaged in an investigation under this Act or in any prosecution for bribery. [§3,2 of 1965.]

(3) In the course of an investigation of an allegation of bribery the Bribery Commissioner or any officer authorized by the Bribery Commissioner to conduct the investigation may, with such assistance as may be necessary, enter and search any department, office or establishment of the Government.

(4) The Bribery Commissioner, or any officer authorized by the Bribery Commissioner to direct and conduct an investigation, may apply to any public servant or any other person for assistance in the exercise of his powers or the discharge of his duties under this Act.

[§ 2, Law 38 of 1974.]

(5) Notwithstanding anything to the contrary in any written law, a certified copy of any sworn statement or of any document obtained by the Bribery Commissioner under subsection (1) shall be admissible in evidence for the purpose of any prosecution under this Act and the production of any such certified copy shall be sufficient proof of the fact of its execution and of the contents thereof.

[§ 2, Law 38 of 1974.]

(6) If in the course of a trial for an offence under this Act the presiding Judge or Magistrate or either party to the case is of opinion that any witness should be summoned to establish the execution or the contents of any document or a certified copy thereof which has been produced or furnished under paragraph (e) of subsection (1), such witness shall be so summoned by the court to give evidence in the same manner as any other witness for the prosecution.

Indictment before High Court. [§ 3, 9 of 1980.]

5. If the Bribery Commissioner, after the investigation of an allegation of bribery against any person, is satisfied that there is a prima facie case of the commission by that person of an offence specified in Part II of this Act, such Commissioner shall transmit a copy of the record of the investigation certified under his hand to the Attorney-General who may indict such person before the High Court :

Provided however, that where the offence consists of soliciting, accepting or offering any gratification which or the value of which does not exceed two hundred rupees, the Bribery Commissioner may having regard to the nature of the offence and other circumstances prosecute such person before the Magistrate's Court and accordingly the Magistrate's Court shall have jurisdiction to hear and determine any such proceedings instituted by the Bribery Commissioner.

Application of the Code of Criminal Procedure Act. [§4,9 of 1980.]

6. (I) Such of the provisions of the Code of Criminal Procedure Act as are not excluded by subsection (2) or are not inconsistent with the provisions of this Act shall apply to proceedings instituted in a court for offences under this Act.

(2) Section 306 of the Code of Criminal Procedure Act shall not apply to proceedings in the Magistrate's Court for offences under this Act.

* Section 9 is repealed by Act No. 9 of 1980.

7. The Bribery Commissioner or any person authorized by him or acting under his control under section 3 may, either in the course of any investigation under this Act or for any of the purposes of this Act, after obtaining a search warrant from a Magistrate, enter upon and search any place, building, house or other premises specified in such warrant, and may take into his custody any book, document or thing deemed necessary for the purposes of the investigation, or enter upon or inspect such premises for the purpose of valuation of such premises or any property thereon ; and the provisions of sections 68 to 76 (both inclusive) of the Code of Criminal Procedure Act shall mutatis mutandis apply in relation to any such search warrant.

Search of place, premises, &c, upon a search warrant. [§4, Law 38 of 1974.]

[§5,9 of 1980.]

8. Notwithstanding the provisions of any other written law to the contrary, the High Court holden in any judicial zone shall have jurisdiction to try an indictment for bribery in respect of an offence under section 23A of this Act.

Jurisdiction to try an indictment for bribery in respect of an offence under section 23A. [§6, 9 of 1980.]

10.* (1) Every indictment or charge shall contain a list of the witnesses whom the prosecution intends to call at the trial and a list of all documents and things intended to be produced at such trial. Nothing in this subsection shall be deemed or construed to debar the prosecution, after notice to the accused, from calling any witness or producing any document or thing not specified in the list of witnesses or productions.

What information to be furnished to the person charged. [§2, Law II of 1976.]

(2) To every indictment or charge shall be annexed a copy of the statements, if any, made by the accused and by every person who is intended to be called as a witness by the prosecution,

[§2, Law 11 of 1976.]

(3) If in the course of a trial for an offence under this Act any witness shall on any material point contradict either expressly or by necessary implication the statement previously given by him in the course of any investigation into such offence under this Act, it shall be lawful for the presiding Judge or Magistrate if he considers it safe and just in all the circumstances—

[§7, Law 38 of 1974.]

(a) to act upon the statement given by the witness in the course of the investigation if such statement is corroborated in material particulars by evidence from an independent source : and

[§8, 9 of 1980.] (b) to have such witness at the conclusion of such trial tried before such court upon a charge, or if such court is the High Court, arraigned and tried on an indictment which shall be prepared and signed by the Registrar of such High Court, for intentionally giving false evidence in a stage of a judicial proceeding.

[§7, Law 38 of 1974.] (4) At any trial under paragraph (b) of subsection (3) it shall be sufficient to prove that the accused made the contradictory statements alleged in the indictment or charge and it shall not be necessary to prove which of such statements is false.

[§7, Law 38 of 1974.] (5) The presiding Judge may, if he considers it expedient, adjourn the trial of any witness under paragraph (b) of subsection (3) for such period as he may think fit and in any such case the accused shall be remanded until the conclusion of such trial.

Calling of witnesses and use and production of documents not specified in the indictment. [§8, 2 of 1965.] [§9, 9 of 1980.] **11.** At the trial of a person for an offence under this Act, the court or the prosecutor may, notwithstanding anything to the contrary in any other written law, call any such witness, or use or produce any such document, as is not specified in the list of witnesses or productions.

Manner of service of summons on any person issued in proceedings in court for bribery. [§8, 2 of 1965.] [§10, 9 of 1980.] **12.** In addition to the manner of service of summons on witnesses prescribed by the Code of Criminal Procedure Act, summons on any person issued in proceedings in a court for bribery may be served in the following manner :—

- (a) by registered letter addressed and despatched by express post to the person to be summoned ; or
- (b) in the case of a public servant, by registered letter addressed and despatched by express post to the head of the department, office or establishment in which such public servant is employed ; or
- (c) in the case of any person who is employed under any other person, by registered letter addressed and despatched by express post to the employer ; or
- (d) through any grama seva niladhari ; or
- (e) in urgent cases by telegram.

* Section 13 is repealed by Act No. 40 of 1958.

PART II

OFFENCES OF BRIBERY

14.* A person— Bribery of judicial officers and Members of Parliament.

(a) who offers any gratification to a judicial officer, or to a Member of Parliament, as an inducement or a reward for such officer's or Member's doing or forbearing to do any act in his judicial capacity or in his capacity as such Member, or

(b) who, being a judicial officer or a Member of Parliament, solicits or accepts any gratification as an inducement or a reward for his doing or forbearing to do any act in his judicial capacity or in his capacity as such Member,

shall be guilty of an offence punishable with rigorous imprisonment for a term not exceeding seven years and a fine not exceeding five thousand rupees : [§ 9,2 of 1965-]

Provided, however, that it shall not be an offence under the preceding provisions of this section for any trade union or other organization to offer to a Member of Parliament, or for any such Member to accept from any trade union or other organization, any allowance or other payment solely for the purposes of his maintenance.

15. A Member of Parliament who solicits or accepts any gratification as an inducement or a reward for— Acceptance of gratification by Members of Parliament for interviewing public servants.

- (a) his interviewing a public servant on behalf of any person, or
- (b) his appearing on behalf of any person before a public servant exercising judicial or quasi-judicial functions,

shall be guilty of an offence punishable with rigorous imprisonment for a term not exceeding seven years and a fine not exceeding five thousand rupees : [§9,2 of 1965.]

Provided, however, that it shall not be an offence under the preceding provisions of this section for a Member of Parliament to appear as an attorney-at-law before a court or before a statutory tribunal of which a public servant is not a member.

Bribery of police officers, peace officers and other public servants.

- 16.** A person—
- (a) who offers any gratification to any ~~Police officer'~~ ~~peace officer,~~ or other public servant, employed in any capacity for the prosecution, detection or punishment of offenders, or to an officer of a court, as an inducement or a reward for such officer's or servant's interfering with the due administration of justice, or procuring or facilitating the commission of any offence, or protecting from detection or punishment the perpetrator of any offence, or abusing his official powers to the injury or detriment of any person, or

- (6) who, being any such officer or servant, solicits or accepts any gratification as an inducement or a reward for such interfering, procuring, facilitating, protecting, or abusing as is referred to in paragraph (a) of this section,

shall be guilty of an offence punishable with [§ 9,2 of 1965.] rigorous imprisonment for a term not exceeding seven years and a fine not exceeding five thousand rupees.

Bribery for giving assistance or using influence in regard to contracts.

- 17.** A person—
- (o) who offers any gratification to a public servant as an inducement or a reward for such public servant's giving assistance or using influence in the promotion of the procuring of any contract with the Government for the performance of any work, the providing of any service, the doing of anything, or the supplying of any article, material or substance, or in the execution of any such contract, or in the payment of the price or consideration stipulated therein or of any subsidy payable in respect thereof, or
- (b) who, being a public servant, solicits or accepts any gratification as an inducement or a reward for his giving assistance or using influence in the promotion of the procuring of any such contract as is referred

to in paragraph (a) of this section, or in the execution of any such contract, or in the payment of the price or consideration stipulated therein or of any subsidy payable in respect thereof,

shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years and a fine not exceeding five thousand rupees.

[§ 9,2 of 1965.]

- 18.** A person—

- (a) who, with intent to obtain from the Government a contract for performing any work, providing any service, doing anything, or supplying any article, material or substance, offers any gratification to any person who has made a tender for such contract, as an inducement or a reward for his withdrawing such tender, or
- (b) who solicits or accepts any gratification as an inducement or a reward for his withdrawing a tender made by him for such contract,

Bribery for procuring withdrawal of tenders.

shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years and a fine not exceeding five thousand rupees.

[§9,2 of 1965.]

- 19.** A person—

- (a) who offers any gratification to a public servant as an inducement or a reward for that public servant's performing or abstaining from performing any official act, or expediting, hindering or preventing the performance of any official act whether by that public servant or by any other public servant, or assisting, favouring, hindering or delaying any person in the transaction of any business with the Government, or
- (b) who, being a public servant, solicits or accepts any gratification as an inducement or a reward for his performing or abstaining from performing any official act or for such expediting, delaying, hindering, preventing, assisting or favouring as is referred to in paragraph (a) of this section, or

Bribery in respect of Government business.

[§ 8, Law 38 of 1974-] (c) who, being a public servant solicits or accepts any gratification,

shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years and a fine not exceeding five thousand rupees ;

[§ 8, Law 38 of 1974] Provided, however, that it shall not be an offence for a public servant to solicit or accept any gratification which he is authorized by law or the terms of his employment to receive ;

[§11,9 of 1980.] Provided further that section 35 of the Medical Ordinance shall not entitle a medical practitioner who is a public servant to solicit or accept any gratification.

Bribery in connexion with payment of claims, appointments, employments, grants, leases, and other benefits.

20. A person—

- (a) who offers any gratification to any person as an inducement or a reward for—
 - (i) his procuring from the Government the payment of the whole or a part of any claim, or
 - (ii) his procuring or furthering the appointment of the first-mentioned person or of any other person to any office, or
 - (iii) his preventing the appointment of any other person to any office, or
 - (iv) his procuring, or furthering the securing of, any employment for the first-mentioned person or for any other person in any department, office or establishment of the Government, or
 - (v) his preventing the securing of any employment for any other person in any department, office or establishment of the Government, or
 - (vi) his procuring, or furthering the securing of, any grant, lease or other benefit from the Government for the first-mentioned person or for any other person, or
 - (vii) his preventing the securing of any such grant, lease or benefit for any other person, or

(b) who solicits or accepts any gratification as an inducement or a reward for his doing any of the acts specified in sub-paragraphs (i), (ii), (iii), (iv), (v), (vi) and (vii) of paragraph (a) of this section,

shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years and a fine not exceeding five thousand rupees.

[§9,2 of 1965.]

21. A person—

- (a) who, while having dealings of any kind with the Government through any department, office or establishment of the Government, offers any gratification to any public servant employed in that department, office or establishment, or
- (b) who, within one year before or after his having dealings of any kind with the Government through any department, office or establishment of the Government, offers any gratification to any public servant employed in that department, office or establishment, or
- (c) who, being a public servant, solicits or accepts any gratification the offer of which is an offence under this section, :

Bribery of public servants by persons having dealings with the Government.

shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years and a fine not exceeding five thousand rupees :

[§9,2 of 1965.]

Provided, however, that such offer of a gratification to a public servant as is referred to in paragraph (b) of this section shall not be an offence under this section if the offerer proves that the gratification was bona fide offered for a purpose not connected with and not relating to such dealings as are referred to in that paragraph and that when he offered the gratification-he had no hope or expectation of having any such dealings or he did not intend that the gratification should be an inducement or a reward for that public servant's doing or forbearing to do any act connected with or relating to any such dealings.

Bribery of member of local authority, or of scheduled institution, or of governing body of scheduled institution, and bribery of officer or employee of local authority or of such institution.

- 22.** A person—
- (a) who offers any gratification to any member of a local authority, or of a scheduled institution, or of the governing body of a scheduled institution, as an inducement or a reward for—
 - (i) such member's voting or abstaining from voting at any meeting of such local authority, scheduled institution, or governing body or of a committee thereof in favour of or against any measure, resolution or question submitted to such local authority, scheduled institution, governing body, or committee, or
 - (ii) such member's performing, or abstaining from performing, or his aid in procuring, expediting, delaying, hindering or preventing the performance of, any official act, or
 - (iii) such member's aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person, or
 - (b) who offers any gratification to any officer or employee of any local authority, or of any scheduled institution, as an inducement or a reward for—
 - (i) such officer's or employee's performing or abstaining from performing, or his aid in procuring, expediting, delaying, hindering or preventing the performance of, any official act, or
 - (ii) such officer's or employee's procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person, or
 - (c) who, being such member as is referred to in paragraph (a) of this section, solicits or accepts any gratification

as an inducement or a reward for any such act, or any such abstaining, as is referred to in sub-paragraphs (i), (ii) and (iii) of that paragraph, or

- (d) who being such officer or employee as is referred to in paragraph (A) of this section, solicits or accepts any gratification as an inducement or a reward for any such act, or any such abstaining, as is referred to in sub-paragraphs (i) and (ii) of that paragraph,

shall be guilty of an offence punishable with rigorous imprisonment for a term not exceeding seven years and a fine not exceeding five thousand rupees.

[§ 9,2 of 1965.]

23. A person—

- (a) who attempts by any threat, deceit, suppression of the truth or other unlawful means to influence any member of a local authority, or of a scheduled institution, or of the governing body of a scheduled institution in giving or withholding his vote in favour of or against any measure, motion, resolution or question submitted to any meeting, or in not attending any meeting, of such local authority, scheduled institution, or governing body or of any committee thereof, or
- (b) who attempts by any such means as in the - last preceding paragraph mentioned to influence any member or any officer or employee of a local authority, or of a scheduled institution, or of the governing body of a scheduled institution to aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person, or to perform or abstain from performing, or to aid in procuring, expediting, delaying, hindering or preventing the performance of, any official act,

Use of threats or fraud to influence vote of member of local authority, or of scheduled institution, or of governing body of scheduled institution.

shall be guilty of an offence punishable with rigorous imprisonment for a term not exceeding seven years and a fine not exceeding five thousand rupees.

[§ 9, 2 of 1965.]

To own or to have owned property deemed under this section to be property acquired by bribery or property to which property acquired by bribery has or had been converted is to be an offence. [§ 14, 40 of 1958]

23A. (1) Where a person has or had acquired any property on or after March 1, 1954, and such property—

- (a) being money, cannot be or could not have been—
 - (i) part of his known income or receipts, or
 - (h) money to which any part of his known receipts has or had been converted ; or
- (b) being property other than money, cannot be or could not have been—
 - (i) property acquired with any part of his known income, or
 - (ii) property which is or was part of his known receipts, or
 - (iii) property to which any part of his known receipts has or had been converted,

then, for the purposes of any prosecution under this section, it shall be deemed, until the contrary is proved by him, that such property is or was property which he has or had acquired by bribery or to which he has or had converted any property acquired by him by bribery.

(2) In subsection (1), " income " does not include income from bribery, and " receipts " do not include receipts from bribery.

(3) A person who is or had been the owner of any property which is deemed under subsection (1) to be property which he has or had acquired by bribery or to which he has or had converted any property acquired by him by bribery shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years and a fine not exceeding five thousand rupees ;

Provided that where such property is or was money deposited to the credit of such person's account in any bank and he satisfies the court that such deposit has or had been made by any other person without his consent or knowledge, he shall not be guilty of an offence under the preceding provisions of this subsection.

(4) No prosecution for an offence under this section shall be instituted against any person unless the Bribery Commissioner has given such person an opportunity to show cause why he should not be prosecuted for such offence and he has failed to show cause or the cause shown by him is unsatisfactory in the opinion of such Commissioner.

(5) For the purposes of this section, where a spouse or unmarried child under the age of eighteen years of a person has or had acquired any property movable or immovable on or after March 1, 1954, it shall be presumed until the contrary is proved that such property was acquired by such person aforesaid and not by such spouse or unmarried child, as the case may be.

(6) In any prosecution for an offence under this section a certificate from the Chief Valuer with regard to the value of any immovable property or the cost of construction of any building on such property shall be sufficient proof of such value and cost of construction unless and until the contrary is proved.

In this subsection, " Chief Valuer " means the Chief Valuer of the Government, and includes any Senior Assistant Valuer, or Assistant Valuer of the Government Valuation Department.

(7) For the purpose of this section " a person " shall mean any person whomsoever, whether or not such person can be shown to have been concerned with any act referred to in section 18 or section 20 or whether or not he is a public servant within the meaning of this Act.

24. Where in any proceedings against any person for any offence under any section in this Part of this Act, it is proved that he accepted any gratification, having grounds to believe or suspect that the gratification was offered in consideration of his doing or forbearing to do any act referred to in that section, he shall be guilty of an offence under that section notwithstanding that he did not actually have the power, right or opportunity so to do or forbear or that he accepted the gratification without intending so to do or forbear or that he did not in fact so do or forbear.

[§ 9, Law 38 of 1974].

[§12,9 of 1980.]

[§ 12, 9 of 1-980].

Acceptor of gratification to be guilty notwithstanding that purpose not carried out, &c.

[§ 10, 2 of 1965.]

Attempt to commit, and abetment of, an offence under this Part.

25. (1) A person who attempts to commit or to cause the commission of an offence under this Part of this Act and in such attempt does any act towards the commission of that offence shall be guilty of an offence and shall be tried in the same manner, and shall upon conviction be liable to the same punishment, as is prescribed by this Act for the first-mentioned offence.

(2) A person who abets an offence under this Part of this Act shall be guilty of an offence and shall be tried in the same manner, and shall upon conviction be liable to the same punishment, as is prescribed by this Act for the first-mentioned offence. In this subsection the expression " abet " shall have the same meaning as in sections 100 and 101 of the Penal Code.

[§ 10, Law 38 of 1974].

(3) A person who conspires with any other person to commit an offence under this Part of this Act shall be guilty of an offence and shall be tried in the same manner and shall upon conviction be liable to the same punishment as is prescribed by this Act for the first-mentioned offence. In this subsection, the expression " conspire " shall have the same meaning as in section H3A of the Penal Code.

When penalty to be imposed in addition to other punishment. [§11, 2 of 1965.] [§ 13, 9 of 1980.]

26. Where a court convicts any person of an offence committed by the acceptance of any gratification in contravention of any provision of this Part of this Act, then, if that gratification is a sum of money or if the value of that gratification can be assessed, the court shall, in addition to the court's imposing on that person any other punishment, order him to pay as a penalty, within such time as may be specified in the order, a sum which is equal to the amount of that gratification or is, in the opinion of the court, the value of that gratification.

Additional fine to be imposed. [§ 11, Law 38 of 1974.] [§ 14. 9 of 1980.]

26A. Where the High Court convicts any person of an offence under section 23A, it shall, in addition to any other penalty that it is required to impose under this Act, impose a fine of not less than the amount which such court has found to have been acquired by bribery or by the proceeds of bribery or converted to property by bribery, or by the proceeds of bribery and not more than three times such amount.

27.- (1) Where, at the conclusion of the trial of a person charged with bribery before a court the presiding Judge or Magistrate is of the opinion that the complainant has wilfully and with intent to harm that person made a false, frivolous or groundless allegation against him, the presiding Judge or Magistrate shall certify that opinion under his hand and transmit the certificate together with the record of the proceedings to the Attorney-General.

Frivolous, false and groundless complaints to be reported to the Attorney-General. [§16, 40 of 1958.] [§15, 9 of 1980.]

(2) Where a certificate under subsection (1) is given in regard to an allegation of bribery made by any person, it shall not be necessary to obtain the sanction of the Attorney-General to institute civil proceedings against that person in respect of that allegation.

28. (1) A fine or a penalty imposed by a court on any person for bribery may be recovered as if the order imposing the fine or the penalty were a decree entered by the District Court in favour of the State and against that person.

Recovery of fine or penalty imposed by court. [§ 13, 2 of 1965.] [§ 16, 9 of 1980.]

(3)* Where the person liable to pay the fine or penalty referred to in the preceding provisions of this section was a public servant on the date of commission of the offence for which the fine or penalty was imposed, then, notwithstanding anything to the contrary in any other written law, any movable or immovable property acquired after that date by the spouse of, or a son or daughter maintained by, such person shall, in addition to the movable and immovable property of such person, be liable to be seized and sold for the recovery of the amount of such fine or penalty, if the property so acquired—

- (a) was purchased by such spouse, son or daughter, or
- (6) was purchased in the name of such spouse, son or daughter by the person liable to pay such fine or penalty, or
- (c) was acquired by such spouse, son or daughter by purchase, gift or otherwise from the person who offered the gratification for the acceptance of which the person liable to pay such fine or penalty became so liable, or
- (d) was acquired by testate or intestate succession from the person liable to pay such fine or penalty-

* Subsections (2) and (4) are repealed by Act No. 2 of 1965.

Effect of a conviction of a person of bribery by a court or the finding of a commission of inquiry that a person is guilty of bribery.
[§ 18, 40 of 1958.]
[§ 17, 9 of 1980.]

29. Where a person is convicted or found guilty of bribery by a court or a commission of inquiry, then, by reason of such conviction or finding—

- (a) he shall become incapable for a period of seven years from the date of such conviction or finding of being registered as an elector or of voting at any election under the Ceylon (Parliamentary Elections) Order in Council, 1946, or for a period of five years under the Local Authorities Elections Ordinance, or of being elected or appointed as a Member of Parliament or as a member of a local authority, and, if at that date he has been elected or appointed as a Member of Parliament or member of a local authority, his election or appointment shall be vacated from that date;
- (b) he shall be disqualified for all time from being employed as a public servant and from being elected or appointed to a scheduled institution or to the governing body of a scheduled institution -
- (c) he shall, if he is a member of a scheduled institution or of the governing body of a scheduled institution, cease to be such member from the date of such conviction or finding ; and
- (d) he shall, if he is a public servant, cease to be a public servant from the date of such conviction or finding and, notwithstanding anything to the contrary in any other written law, be deemed to have been dismissed on that date by the authority empowered by law to dismiss him.

Offences under this Part to be cognizable.

30. All offences under this Part of this Act shall be cognizable offences for the purpose of the application of the provisions of the Code of Criminal Procedure Act notwithstanding anything contained in the First Schedule of that Act.

Procedure on detection of person receiving illegal gratification, (§ 12, Law 38 of 1974.1.

30A. (1) Where any officer, authorized by the Bribery Commissioner in that behalf under section 3, detects any person accepting, soliciting or offering an illegal gratification, such officer shall—

- (a) without unnecessary delay take such person before any Magistrate who may admit such person to bail; or
- (b) produce such person before any Magistrate with a certificate under the hand of the Bribery Commissioner that such person has been detected accepting, soliciting or offering an illegal gratification.

(2) Where a person is produced before any Magistrate under paragraph (b) of subsection (1), the Magistrate shall remand such person until the conclusion of the trial and such person shall not be admitted to bail except with the sanction in writing of the Attorney-General.

(3) Notwithstanding the provisions of subsection (2), in any proceeding under paragraph (a) or paragraph (b) of subsection (1), where the Attorney-General informs the Magistrate that he does not propose to institute proceedings against the person in custody, such person shall be discharged forthwith.

PART III

COMMISSIONS OF INQUIRY

32.* (1) The President may appoint, by warrant under the Public Seal of the Republic, a commission of inquiry consisting of one or more members to inquire into and report on any allegations of bribery—

Power to appoint commissions of inquiry to investigate allegations of bribery.

- (a) made generally against the Cabinet of Ministers, or the Members of Parliament, or the members of any local authority, or the persons appointed by the President to any office, or the members, directors, or governing body of any scheduled institution, or
- (b) made against any particular person or persons specified in paragraph (a) of this subsection.

(2) A warrant appointing a commission of inquiry under this Act shall contain such particulars as are required by subsection (2) of section 2 of the Commissions of Inquiry Act, to be set out in a warrant issued under that Act.

Section 31 is repealed by Act No. 9 of 1980.

Application of provisions of Commissions of Inquiry Act.

33. Upon the appointment of a commission of inquiry under this Act, the provisions of the Commissions of Inquiry Act other than the provisions of subsection (1) of section 2 and the provisions of section 17, shall apply in like manner as if such commission were appointed under that Act.

Powers of commissions of inquiry.

34. (1) A commission of inquiry shall, in addition to the powers under the Commissions of Inquiry Act, have—

- (a) the power to cause summons on any person issued in proceedings before the commission to be served in any manner specified in paragraphs (a), (A), (c), (d) and (e) of section 12 ;
- (b) the power to issue warrants of arrest in case of disobedience to summons ;
- (c) the power to require by written notice the person or each person in respect of whom the commission is holding an inquiry to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by such person and by the spouse, sons and daughters of such person, and specifying the date on which each of the properties enumerated was acquired whether by way of purchase, gift, bequest, inheritance or otherwise;
- (d) the power to require by written notice any other person to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by such person where the commission has reasonable grounds to believe that such information can assist the inquiry ;
- (e) the power, in regard to the person or each person in respect of whom the inquiry is held and in regard to the spouse, sons and daughters of that person, to require by written notice any bank, or any department, office or establishment of the Government, or any local authority or scheduled institution to produce any such books and documents, and to furnish any such certified copies and any such information, as the Bribery Commissioner may require under section 4 to be produced or furnished ; and

[§20,40 of 1958.]

(f) such other powers as may be conferred on the commission by the President either by the warrant constituting the commission or by any subsequent warrant.

(2) A warrant of arrest issued by a commission of inquiry—

- (a) shall be under the hand of the chairman of the commission or, if the commission consists of a sole commissioner, under the hand of such commissioner, and
- (b) shall be executed by any police officer to whom it is directed.

"No stamp duty shall be payable for any such warrant of arrest.

(3) A commission of inquiry shall treat all information obtained by it under paragraph (d) of subsection (1) with the strictest secrecy and shall not divulge such information to any person other than the Bribery Commissioner, [§20,40 of 1958 the person in respect of whom the inquiry is held, or any attorney-at-law appearing for that person.

35. Where a person in respect of whom a commission of inquiry is holding an inquiry refuses or neglects to attend the inquiry, the commission may proceed with the inquiry in his absence. Inquiry despite absence of person affected.

36. (1) A commission of inquiry may cause the evidence given before it to be taken down in such language as it may deem proper. Language of evidence.

(2) Where any evidence a given before a commission of inquiry in a language which any member of the commission does not understand, it shall be interpreted into a language understood by that member.

37. (1) Every offence of contempt committed against or in disrespect of the authority of a commission of inquiry shall be communicated to the President of the Court of Appeal by letter under the hand of the chairman of the commission or, where the commission consists of a sole commissioner, under the hand of such commissioner. Offence of contempt against commission of inquiry to be communicated to the President of the Court of Appeal.

(2) The President of the Court of Appeal shall, upon his receiving from a commission of inquiry a communication under subsection (1), issue a rule nisi for contempt

of court on the person named in that communication, as having committed the offence of contempt against or in disrespect of the authority of that commission.

(3) A person on whom a rule nisi is issued under subsection (2) shall be liable to be punished unless he shows cause to the satisfaction of the Court of Appeal.

(4) In any proceedings against any person for the offence of contempt committed against or in disrespect of the authority of a commission of inquiry, no member of that commission shall be liable to be summoned as a witness by that person, but the Court of Appeal may, if that court considers it necessary to do so, examine a member of that commission.

application make an order, for the payment of that sum by that person, and, if that person fails to pay that sum within the time allowed by the order, that sum may be recovered in like manner as if the order were a decree entered by a District Court in [§20,9 of 1980.] favour of the State and against that person.

(3) If the person liable to pay the sum referred to in subsection (2) was a public servant on the date of his acceptance of the gratification, the provisions of subsection (3) of section 28 shall, for the purposes of the recovery of that sum, apply in like manner as if that sum were a penalty imposed by the High Court under section [§20,9 of 1980.] 26.

(4) In the proceedings in the High Court [§ 20,9 of 1980] for the recovery of the sum referred to in subsection (2), it shall not be competent for that court or for anyone to question the sum declared by the commission of inquiry to be the amount, or the value, of the gratification.

Publication of report of commission of inquiry.

38. (1) The President shall order the publication of the report of a commission of inquiry if in his opinion the public interest will not suffer by such publication.

(2) Where the President decides not to publish the report of a commission of inquiry on the ground that the public interest will suffer by its publication, he shall, on being requested so to do by a resolution passed by Parliament, order the publication of such report.

Assessment of value of gratification where commission of inquiry finds person guilty of bribery by having accepted a gratification.

39. (1) Where a commission of inquiry finds that any person is guilty of bribery by having accepted a gratification—

(a) the commission shall, if that gratification is a sum of money, state that sum, or, if the value of that gratification can be assessed, assess and declare that value, in its report, and

(b) the Attorney-General shall in writing communicate such finding to that person and, if a sum is specified in that report as the amount or the value of that gratification, direct that person to pay that sum to the Attorney-General within such time as may be specified in the direction.

(2) If a person fails to pay the sum directed by the Attorney-General under subsection (1) to be paid, the Attorney-General may apply to the High Court for an order, and the High Court shall upon such

[§ 20, 9 of 1980.]

*** PART V**

OFFENCES OTHER THAN BRIBERY

70. A person who—

Wilful neglect to carry out direction of, or obstruction of, investigating officer, &c. [§21, 9 of 1980.]

(a) wilfully neglects or omits to carry out any direction given to him under subsection (2) of section 3 by the Bribery Commissioner or by any officer empowered by that section to direct and conduct an investigation, or

(b) gives a false answer when questioned under that subsection, or

(c) makes a false statement in an affidavit submitted by him in compliance with a direction under that subsection,

shall be guilty of an offence and shall upon summary trial and conviction by a Magistrate be liable to a fine of not less than one hundred rupees and not more than five hundred rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

* Part IV is repealed by Act No. 2 of 1965.

Failure to furnish information. [§ 22, 9 of 1980.]

71. Notwithstanding the provisions of any other written law or any oath of secrecy to the contrary, every person to whom a notice is sent by the Bribery Commissioner under subsection (1) of section 4 or by a commission of inquiry under subsection (1) of section 34 shall comply with the provisions of that notice within such time as may be specified therein, and, if he wilfully neglects or omits to do so, he shall be guilty of an offence and shall, on conviction before a Magistrate, be liable—

- (o) to a fine of not less than one hundred rupees and not more than five hundred rupees or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment; and
- (&) to a fine of not less than one hundred rupees for every day during which the offence is continued after the date on which he is required to furnish the sworn statement.

Failure to assist investigating officer, and obstruction of search. [§ 55, 40 of 1958.]

72. A person—

- (a) who, when requested under subsection (4) of section 4 to render to the Bribery Commissioner, or to any officer empowered by section 3 to direct and conduct an investigation, any assistance in the exercise of his powers or the discharge of his duties under this Act, wilfully neglects or omits to render that assistance, or

[§ 55, 40 of 1958.]

- (b) who obstructs or resists the Bribery Commissioner, or any officer authorized by the Bribery Commissioner, in the exercise of the powers of entry and search under subsection (3) of section 4, or
- (c) who obstructs or resists the execution of a search warrant issued under section 7,

shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine not exceeding five hundred rupees and, upon a second or subsequent conviction of an offence under this section, shall, in addition to such fine, be liable to rigorous imprisonment for a term not exceeding one year.

73. (1) A person who—

- (a) interferes with any witness summoned in any proceedings for bribery in or before a court or commission of inquiry or any person whose statement has been recorded by the Bribery Commissioner in the course of an investigation, or
- (&) induces any such witness or any such person to refrain from giving evidence, or
- (c) threatens any such witness or any such person with injury to his body, mind or reputation in order to deter him from giving evidence, or
- (d) injures any such witness or any such person in body, mind or reputation in order to deter him from giving evidence, or
- (e) compels any such witness or such person not to give evidence,

Interference with witnesses, &c. [§ 23, 9 of 1980.]

shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to rigorous imprisonment for a term not exceeding twelve months and to a fine.

(2) Every court before which any person surrenders himself or is produced on arrest on an allegation that he has committed or has been concerned in committing or is suspected of having committed or to have been concerned in committing an offence under this section shall keep such person on remand until the conclusion of the trial except in exceptional circumstances where the court before which he surrenders himself or is produced may after recording its reasons therefor release him on bail.

74. (1) A person who directly or indirectly influences any member of a commission of inquiry or any officer appointed under this Act, in the performance of his duty, shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine of not less than two hundred rupees and not more than five hundred rupees.

Influencing, threatening or injuring member of commission of inquiry or officer appointed under this Act. [§ 20, 2 of 1965.]

(2) A person who directly or indirectly by words written or spoken or by any act threatens any member of a commission of

inquiry or any officer appointed under this Act, with any injury to his body, mind or reputation in order to deter him from the performance of his duty, shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine of not less than two hundred rupees and not more than five hundred rupees and, upon a second or subsequent conviction of an offence under this subsection shall, in addition to such fine, be liable to imprisonment for a term not exceeding one year.

[§20, 2 of 1965.]

(3) A person who causes injury to the body, mind or reputation of a member of a commission of inquiry or of any officer appointed under this Act, in order to deter him from the performance of his duty shall, upon summary trial and conviction by a Magistrate, -be liable to rigorous imprisonment for a term not exceeding twelve months and -to a fine.

Disobeying commission of inquiry. [§21, 2 of 1965.]

75. (1) A person who refuses or wilfully neglects or omits to carry out an order of a commission of inquiry or wilfully obstructs such commission shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months or to a fine of not less than one hundred rupees and not more than five hundred rupees.

(2) A prosecution for an offence under subsection (1) may be instituted in such Magistrate's Court as may be determined by the Attorney-General.

Publication of proceedings held in camera and report of commission of inquiry. [§ 23, 2 of 1965.]

77.* (1) Where the public and the press have been excluded from any proceedings of a commission of inquiry, no person shall print or publish those proceedings or any part thereof except with the permission of the commission given in writing under the hand of the chairman of the commission or, if the commission consists of a sole commissioner, under the hand of such commissioner.

(3)f No person shall, before the publication of the report of a commission of inquiry under the order of the President

print or publish any part of such report or what purports to be a part or an excerpt of such report.

(4) A person who contravenes the provisions of any of the preceding subsections of this section shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to a fine of not less than two hundred rupees and not more than five hundred rupees and, upon a second or subsequent conviction of an offence under this subsection, shall, in addition to such fine, be liable to rigorous imprisonment for a term not exceeding one year.

PART VI

GENERAL

78. (1) No Magistrate's Court shall entertain any prosecution for an offence under this Act except by or with the written sanction of the Bribery Commissioner or an officer authorized by him in that behalf.

Prosecutions for offences under this Act, and suits and proceedings in respect of allegations for bribery or statements in evidence, reports and decisions. [§24, 2 of 1965.] [§ 24, 9 of 1980.]

(2) The proceedings in a court for bribery shall be taken before any other business of that court unless special circumstances of urgency in such other business render it impossible to do so.

(3) Upon application made in that behalf by the Attorney-General or any officer authorized by him, the whole or any part of the proceedings in any court for bribery may be held in camera.

(6)f Nothing contained in the report of a commission of inquiry published under the order of the President shall be made the ground of an action for defamation, and no court shall entertain an action for defamation based on anything contained in any such report.

79. (1) In any proceedings for bribery before a court or commission of inquiry, the giver of a gratification shall be a competent witness against the person accused of taking the gratification and shall not be regarded as an accomplice, and the decision or finding of the court or commission shall not be illegal merely because it proceeds upon the uncorroborated testimony of such giver.

Person giving gratification not to be treated as accomplice. [§ 25, 2 of 1965.] [§25, 9 of 1980.]

• Section 76 is repealed by Ad No. 2 of 1965.
t Subsection (2) is repealed by Act No. 2 of 1965.
^ Subsections (4) and (5) are repealed by Law No. 38 of 1974.

(2) In any proceedings against any person under this Act, the spouse of that person shall be a competent witness.

Bail from person about to leave Sri Lanka after commencement of investigation or proceedings. [§63, 40 of 1958.]

80. (1) If any person, in the course of an investigation of an allegation of bribery against him or in the course of any proceedings against him for bribery, is preparing or about to leave Sri Lanka, the Bribery Commissioner or any officer authorized in that behalf by the Bribery Commissioner may apply to any Magistrate for an order requiring such person to furnish bail in such sum as the Magistrate may deem reasonable.

(2) If a person ordered to furnish bail under subsection (1) fails to do so, he shall be remanded to the custody of the Fiscal till such bail is furnished or till such time as the Bribery Commissioner may determine.

[§ 63, 40 of 1958.]

Tender of conditional pardon. [§ 26.2 of 1965.]

81. (1) At any time before the conclusion of the trial of a person charged with bribery, the Attorney-General in consultation with the Bribery Commissioner may, with the view of obtaining at the trial the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender, or by writing under his hand authorize any Magistrate named by him to tender, a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or as abettor in the commission thereof.

(2) The Magistrate shall record in the manner prescribed by the Code of Criminal Procedure Act the evidence on oath of every person accepting a pardon under subsection (1) and transmit the record to the Attorney-General,

Presumption as to receipt of letter or telegram.

82. Where any summons, notice, direction, decision or other matter is sent or communicated to any person by registered letter or telegram, then, upon the production of the receipt issued by the post office for such letter or telegram, it shall be presumed that such letter or telegram was received by the addressee, unless such letter or telegram is returned undelivered.

Amendment of the Schedule. [§ 67, 40 of 1958.]

84.* The President may, on the advice of the Minister in charge of the subject of Justice, amend the Schedule to this Act by Proclamation published in the Gazette.

Section 83 is repealed by Act No. 40 of 1958,

85. Notwithstanding anything to the contrary in the Income Tax Ordinance or the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979) the Commissioner-General of Inland Revenue shall report to the Bribery Commissioner for investigation any case where he suspects from information available to him that any person is guilty of bribery.

Commissioner of Inland Revenue to report to Bribery Commissioner cases of suspected bribery. [§ 56 (1), 18 of 1965.]

85A. A person who attends any trial or inquiry under this Act to give evidence may be paid out of the Consolidated Fund the expenses of attending the trial or inquiry at such rates and subject to such conditions as are from time to time prescribed for witnesses under Chapter XIX of the Code of Criminal Procedure Act.

Expenses of persons attending any trial or inquiry under this Act to give evidence. [§69,40 of 1958.] [§27,9of 1980.]

85B. Notwithstanding the provisions of section 303 (5) of the Code of Criminal Procedure Act, the provisions of section 29 of this Act shall apply to any person convicted of bribery, and on whom a suspended sentence has been imposed under section 303 (1) of the Code of Criminal Procedure Act in respect of that conviction.

Provisions of section 303 (5) of the Code of Criminal Procedure Act not to apply to persons to whom the provisions of section 29 of this Act apply. [§ 28, 9 of 1980.]

85C. Any prosecution pending in the High Court on the 24th day of January, 1980, in respect of the offences of soliciting, accepting or offering any gratification which or the value of which does not exceed two hundred rupees, shall stand removed to the Magistrate's Court if the High Court having regard to the nature of the offence and other circumstances decides that any such prosecution should be transferred and such Magistrate's Court shall have the jurisdiction to take cognizance of and hear and determine or to complete the same :

Transitional provisions. [§ 28, 9 of 1980.]

Provided that any such prosecution, in which the adducing of evidence has commenced as at the 24th day of January, 1980, shall be heard and determined by the said High Court,

PART VII

INTERPRETATION

86. For the purposes of this Act, property which is held by or in the name of a person in trust for or for the benefit of any other person shall be deemed to be indirectly owned by such other person.

Indirect ownership of property.

How to construe reference to Government.

87. Every reference in this Act to the Government shall be construed as including a reference to a local authority and to every scheduled institution.

When a person offers a gratification.

88. For the purposes of this Act a person offers a gratification if he or any other person acting with his knowledge or consent directly or indirectly gives, affords or holds out, or agrees, undertakes or promises to give, afford or hold out, any gratification to or for the benefit of or in trust for any other person.

When a person solicits or accepts a gratification.

89. For the purposes of this Act—

- (a) a person solicits a gratification if he, or any other person acting with his knowledge or consent, directly or indirectly demands, invites, asks for, or indicates willingness to receive, any gratification, whether for the first-mentioned person or for any other person, and
- (b) a person accepts a gratification if he, or any other person acting with his knowledge or consent, directly or indirectly takes, receives or obtains, or agrees to take, receive or obtain any gratification, whether for the first-mentioned person or for any other person,

Public servant soliciting or accepting gratification outside Sri Lanka.
[§ 14, Law 38 of 1974.]
[§ 29, 9 of 1980.]

89A. A public servant who solicits or accepts a gratification which is an offence under this Act shall, if such solicitation or acceptance was made outside Sri Lanka, be deemed to have committed such offence within Sri Lanka, and accordingly the High Court holden in Colombo shall have jurisdiction to try such offence notwithstanding anything in any other law to the contrary.

Meaning of expressions.

90. In this Act, unless the context otherwise requires—

- " appointed date " means the 1st day of March, 1954 ;
- " bribery " means the offer, solicitation or acceptance of any gratification in contravention of any provision of Part II of this Act, or any other act in contravention of any such provision ;
- " commission of inquiry " means a commission of inquiry appointed under this Act;

" gratification " includes—

- (a) money or any gift, loan, fee, reward, commission, valuable security or other property or interest in property of any description, whether movable or immovable,
- (b) any office, employment or contract,
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability whatsoever, whether in whole or in part,
- (d) any other service, favour or advantage of any description whatsoever including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary or penal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any right or any official power or duty, and
- (e) any offer, undertaking or promise of any gratification within the meaning of the preceding paragraphs (a), (b), (c) and (d);

" local authority " includes any Municipal Council, Urban Council, Town Council, Village Council, Board of Health, or Board of Improvement, and includes—

- (a) a committee of any such Council, and
- (b) a committee appointed by an Urban Council under section 29 of the Urban Councils Ordinance, or by a Town Council under section 28 of the Town Councils Ordinance ;

" public servant " includes every officer, servant or employee of the State, or of any local authority, or of any scheduled institution, every juror, and every arbitrator or other person to whom any cause or matter has been referred for a decision or report by any court or by any other competent public authority :

(§3, Law 11 of 1976-] Provided however that where any local authority has been dissolved and the administration of the affairs of that authority has been vested in any person, every employee of that local authority immediately before its dissolution who continues in employment after such dissolution, shall be deemed, for the purposes of this Act, to be a public servant.

[§ 30,9 of 1980-1 " scheduled institution " means any such board, institution, corporation or other body as is for the time being specified in the Schedule to this Act, and any board, institution,

corporation or other body which is deemed under the provisions of any enactment to be a scheduled institution within the meaning of this Act, and includes any company, whether public or private or other body—

(a) in which any such board, institution, corporation or other body holds, or

(b) in which more than one such board, institution or other body, in the aggregate, hold, not less than fifty-one percent of the shares.

[Sections 84 and 90.]

SCHEDULE

1. Advisory Committees established under the Irrigation (Amendment) Act.
2. Advisory Committees established under the Public Examinations Act.
3. Agrarian Research & Training Institute established under the Agrarian Research & Training Institute Act.
4. Agrarian Services Committees constituted under the Agrarian Services Act.
5. Agricultural Insurance Board established under the Agricultural Insurance Law.
6. Air Ceylon Ltd. established under the Air Ceylon (Incorporation) Act.
7. Atomic Energy Authority established under the Atomic Energy Authority Act.
8. Ayurvedic Medical Council and the Ayurvedic College and Hospital Board and the Ayurvedic Research Committee established under the Ayurveda Act.
9. Bank of Ceylon established under the Bank of Ceylon Ordinance.
10. Boards of Adjudicators constituted under the Capital Levy Act.
11. Boards of Appeal constituted under the Rubber Control Ordinance.
12. Boards of Control constituted under the Defence Stations Act.
13. Boards established under the Coconut Development Act.
14. Board of Review constituted under the Land Acquisition Act.
15. Board of Review constituted under the Rent Act.
16. Buddha Sravaka Dharmapithaya established under the Buddha Sravaka Dharmapithaya Act.
17. Bureau of Ceylon Standards established under the Bureau of Ceylon Standards Act.
18. Central Bank of Ceylon established under the Monetary Law Act.
19. Central Planning Commission established under the Town and Country Planning Ordinance.
20. Ceylon Electricity Board established under the Ceylon Electricity Board Act.
21. Ceylon Hotels Corporation established under the Ceylon Hotels Corporation Act.
22. Ceylon Institute of Scientific & Industrial Research constituted under the Ceylon Institute of Scientific & Industrial Research Act.
23. Ceylon National Chamber of Industries constituted under the Ceylon National Chamber of Industries Act.
24. Ceylon National Library Services Board established under the Ceylon National Library Services Board Act.
25. Ceylon Petroleum Corporation established under the Ceylon Petroleum Corporation Act.
26. Ceylon Railway Guards' & Locomotive Enginemen's Provident Association (Incorporation) Act.
27. Ceylon Shipping Corporation established under the Ceylon Shipping Corporation Act.
28. Ceylon State Plantations Corporation established under the Ceylon State Plantations Corporation Act.
29. Ceylon Tourist Board established under the Ceylon Tourist Board Act.
30. Coconut Fibre Board established under the Coconut Fibre Act,

31. Colombo District (Low-Lying Areas) Reclamation and Development Board established under the Colombo District (Low-Lying Areas) Reclamation and Development Board Act.
32. Colombo Special Areas Development Board established under the Special Areas (Colombo) Development Ordinance.
33. Compensation Board established under the Antiquities Ordinance.
34. Compensation Tribunal established under the Ceylon State Mortgage Bank and Finance (Amendment) Act.
35. Compensation Tribunal established under the People's Bank (Acquisition of Premises) Act.
36. Commissioners of the Loan Board appointed under the Loan Board Ordinance.
37. Competent Authority appointed under the Business Undertakings (Acquisition) Act, and business undertakings vested or acquired under the Act.
38. Congress of Religions established under the Congress of Religions Act.
39. Co-operative Employees Commission established under the Co-operative Employees Commission Act.
40. Co-operative Societies registered under the Co-operative Societies Law.
41. Corporations established under the Sri Lanka State Trading Corporations Act.
42. Corporations established under the State Agricultural Corporations Act.
43. Corporations established under the State Industrial Corporations Act.
44. Debt Conciliation Board of Ceylon established under the Debt Conciliation Board Ordinance.
45. Development Finance Corporation of Ceylon established under the Development Finance Corporation of Ceylon Act.
46. Government-sponsored Corporations established under the Government Sponsored Corporations Act.
47. Guaranteed Prices Advisory Committee established under the Agricultural Products (Guaranteed Prices and Control of Hulling & Milling) Act.
48. Homeopathic Council established under the Homeopathy Act.
49. Industrial Advisory Council, Industrial Panels and the Industrial Development Board of Ceylon established under the Industrial Development Act.
50. Industrial Products Regulation Board established under the Industrial Products Act.
51. Institute of Chartered Accountants of Ceylon established under the Institute of Chartered Accountants Act.
52. Institute of Engineers, Ceylon, established under the Institute of Engineers, Ceylon, Act.
53. Institute of Surveying & Mapping established under the Institute of Surveying & Mapping Act.
54. Insurance Corporation of Ceylon established under the Insurance Corporation Act.
55. Labour Tribunals established under the Industrial Disputes Act.
56. Lanka Salu Sala Ltd.
57. Mahaweli Development Board established under the Mahaweli Development Board Act.
58. Milk Board established under the Milk Board Act.
59. Mosques & Muslim Charitable Trusts or Wakfs Board established under the Muslim Mosques & Charitable Trusts or Wakfs Act.
60. National Apprenticeship Board established under the National Apprenticeship Act.
61. National Lotteries Board established under the National Lotteries Board Act.
62. National Planning Council constituted under the National Planning Council Act.
63. National Savings Bank established under the National Savings Bank Act.
64. National Science Council of Sri Lanka established under the National Science Council of Sri Lanka Law.
65. National Welfare Board constituted under the Merchant Shipping Act.
66. National Youth Services Council established under the National Youth Services Act.
67. Nindagama Lands Board established under the Nindagama Lands Act.
68. Paddy Marketing Board established under the Paddy Marketing Board Act.
69. Registered Community Centres.
70. Registration of Persons Tribunal established under the Registration of Persons Act.

71. Registered Rural Development Societies.
72. Remuneration Tribunals constituted under the Shop & Office Employees (Regulation of Employment & Remuneration) Act.
73. Rent Boards constituted under the Rent Act.
74. Rest Houses, National Holiday Resorts, Resort Authorities established under the Tourist Development Act.
75. River Valleys Development Board established under the River Valleys Development Board Act-
76. Rubber Advisory Board established under the Rubber Control Act.
77. Shipping: Agents licensed under the Licensing of Shipping Agents Act.
78. Sri Lanka Broadcasting Corporation established under the Sri Lanka Broadcasting Corporation (Amendment) Law.
79. Sri Lanka Investors Commissions established under the Sri Lanka Investors Incentives Act.
80. Sri Lanka Central Transport Board & Regional Transport Boards established under the Transport Board Law.
81. Sri Lanka Sahithiya Mandalaya established under the Sri Lanka Sahithiya Mandalaya Act.
82. Sri Lanka Tea Board established under the Sri Lanka Tea Board Law.
83. State Film Corporation established under the State Film Corporation Act.
84. State Gem Corporation established under the State Gem Corporation Act.
- 85. State Mortgage & Investment Bank established under the State Mortgage & Investment Bank Law.
86. State Printing Corporation established under the State Printing Corporation Act.
87. Tea Advisory Board established under the Tea Control Act.
88. Tea Control Department established under the Tea Control Act.
89. Tea & Rubber Estates (Control of Fragmentation) Board established under the Tea & Rubber Estates (Control of Fragmentation) Act.
90. The Board of Trustees of the Lady Lochore Loan Fund constituted, under the Lady Lochore Loan Fund (Board of Trustees) Act.
91. The Ceylon Coconut Board established under the Coconut Products Ordinance.
92. The Coconut Research Board established under the Coconut Research Ordinance.
93. The Co-operative Wholesale Establishment established under the Co-operative Wholesale Establishment Act.
94. The Local Government Service Advisory Board & the Local Government Service Disciplinary Board established under the Local Government Service Law.
95. The Local Loan & Development Commissioners appointed under the Local Loans & Development Ordinance.
96. The Monetary Board of the Central Bank constituted under the Monetary Law Act.
97. The People's Bank established under the People's Bank Act.
98. The Ports Authority established under the Sri Lanka Ports Authority Act.
99. The Rubber Research Board established under the Rubber Research Ordinance.
100. The Sri Lanka Tea Board established under the Sri Lanka Tea Board Law.
101. Transport Appeals Tribunal constituted under the Motor Traffic Act.
102. Tribunal of Appeal established under the Employees Provident Fund Act.
103. Universities established under the Universities Act.
104. University Grants Commission, the Appeal Board & each Higher Educational Institution constituted under the Universities Act.
105. Veterinary Council of Sri Lanka constituted under the Veterinary Surgeons & Practitioners Act.
106. Water Resources Board established under the Water Resources Board Act.
107. Widows* & Orphans' Pension Scheme established under the Widows' & Orphans' Pension Scheme (Armed Forces) Act.

CHAPTER 43
BROTHELS

Ordinances AN ORDINANCE TO PROVIDE FOR THE SUPPRESSION OF BROTHELS.
Nos. 5 of 1889,
21 of 1919,
42 of 1943.

[28th June, 1889.]

Short title. 1. This Ordinance may be cited as the Brothels Ordinance.

Offences. 2. Any person who—
(a) keeps or manages or acts or assists in the management of a brothel; or
(b) being the tenant, lessee, occupier or owner of any premises, knowingly permits such premises or any part thereof to be used as a brothel, or for the purpose of habitual prostitution ; or
(c) being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same, or any part thereof, with the knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel,

shall be guilty of an offence, and shall on conviction be liable—

Penalties. (i) to a penalty not exceeding five hundred rupees, or, in the discretion of the court, to simple or rigorous imprisonment for a term not exceeding six months, or to both such fine and imprisonment;
(ii) on a second or subsequent conviction, to a penalty not exceeding one thousand rupees, or, in the discretion of the court, to simple or rigorous imprisonment for a term not exceeding one year, or to both such fine and imprisonment,

and in the case of any conviction under this section, such person may, in addition to any such penalty or imprisonment as may be

imposed by the court, be required by the court to enter into a recognizance, with or without sureties as to the court seems meet, to be of good behaviour for any period not exceeding twelve months ; and in default of entering into such a recognizance, with or without sureties (as the case may be), such person may be sentenced to simple or rigorous imprisonment for any period not exceeding three months, in addition to any such term of imprisonment as aforesaid.

3. Any person who shall appear, act, or behave as master or mistress, or as the person having the care, government, or management of any brothel, shall be deemed and taken to be the keeper or manager thereof, and shall be liable to be prosecuted and punished as such, notwithstanding that he or she shall not in fact be the real keeper or manager thereof.

Who shall be deemed keeper or manager of a brothel.

4. (1) Upon the conviction of the tenant, lessee, or occupier of any premises of any offence under this Ordinance, it shall be lawful for the court, on the application either of the prosecuting party, or of the owner, or lessor, or, if it so thinks fit, of its own motion, to declare that the tenancy or occupation of the said premises under the lease or agreement under which the same are held or occupied shall be terminated from such date and subject to such conditions as may be defined in the order of the court, and may by the same or a further order direct that the possession of the said premises shall be delivered to any person entitled to the possession thereof as from any date specified in the order.

Power of court terminate tenancy.

(2) In the event of any owner or lessor of any premises failing to exercise his right of application to the court under this section, and of the tenant, lessee, or occupier so

BROTHELS

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convicted being subsequently convicted of an offence under this Ordinance in respect of the same premises, such owner or lessor shall be deemed to have knowingly abetted the said offence, and shall be liable to be prosecuted and punished accordingly, unless he proves that he had taken all reasonable steps to prevent the recurrence of the offence.

5. All offences under this Ordinance shall be " non-cognizable " and " bailable " within the meaning of those terms as defined in the Code of Criminal Procedure Act and shall be tried in the Magistrate's Court, which is hereby empowered to award all or any of the punishments hereinbefore provided, anything in section 14 of the said Act to the contrary notwithstanding.

Offences
triable by
Magistrates
court and to
be non-
cognizable and
bailable

CHAPTER 236

BOATMEN

Ordinances AN ORDINANCE FOR THE REGULATION AND CONTROL OF BOATMEN EMPLOYED
Nos. 6 of 1880, IN LICENSED BOATS.
6 of 1896.

[10th November, 1880.]

Short title. 1. This Ordinance may be cited as the Boatmen's Ordinance.

Construction and application of Ordinance. 2. (1) This Ordinance shall be construed as one with the Masters Attendant Ordinance,* hereinafter referred to as " the principal Ordinance ".

(2) This Ordinance shall extend to the port of Colombo only, but the Minister may by Order extend it to any other port or ports to which the provisions of the principal Ordinance extend.

Interpretation. 3. The term " licensed boat " shall mean any licensed boat when employed in carrying passengers for hire, and any bumboat and any boat used by traders or hawkers or for the conveyance of goods for sale.

Boatmen to be licensed. 4. From and after the 1st day of January, 1881, every person to be employed as a boatman in, or to serve as one of the crew, or in any capacity on board of, any licensed boat, shall be duly licensed for that purpose as hereinafter provided.

Master Attendant to keep register of licensed boatmen; particulars to be entered therein and shall issue licence to boatmen. 5. It shall be the duty of the Master Attendant to register in a book to be kept for that purpose, and to be called " the Register of Licensed Boatmen", in numerical order, the name, description, and such other particulars as may be necessary for identification, of every person applying to be licensed to be employed as a

boatman, and he shall thereupon issue to such person a licence to be employed as aforesaid, which licence shall bear the registered number of the applicant, and shall be in the form in the Schedule, and shall be in force for such time as shall be mentioned therein, and the date of such licence, together with the period for which it shall be granted, shall be registered in "the Register of Licensed Boatmen ":

Provided, however, that the Master Attendant may, for good cause, refuse to issue a licence to any person applying therefor, and may from time to time renew any licence which may have expired, and such refusal or renewal shall be duly registered in the register. May refuse to Issue licence.

6. The Master Attendant shall cause to be delivered to each licensed boatman a badge of uniform pattern, bearing thereon the number of his licence, the cost of which shall be paid by the person to whom the same is delivered, and it shall be the duty of every licensed boatman, when acting as such, to wear such badge conspicuously exposed upon his person; and in case the owner of such badge shall at any time satisfy the Master Attendant that such badge has been lost or destroyed it shall be lawful for the Master Attendant to cause another badge to be delivered to such boatman upon his paying the cost thereof. Licensed boatmen to have badges and to wear them.

Provision for lost badges.

* All references to Master Attendant in this Ordinance shall be deemed to be a reference to the Ports Authority in the application of its provisions to any " specified port " within the meaning of section 2 of the Sri Lanka Ports Authority Act — See section 86 (3) thereof.

f Sri Lanka Ports Authority Act shall apply in, to, and in relation to the Ports of Colombo, Galle, and Trincomalee — See section 2 thereof.

Boatmen to be under control of Master Attendant.

7. All boatmen licensed under this Ordinance shall be subject and liable to the orders, directions, and control of the Master Attendant, who is hereby invested with full power and authority to carry into execution the provisions of this Ordinance.

(g) any unlicensed person who shall use or exhibit, with intent to deceive, a boatman's badge, or any false badge intended to represent, or representing, a licensed boatman's badge;

Master Attendant, with approval of the Minister, may make rules for the government of licensed boatmen. Every boatman and tindal to be furnished with a copy of such rules.

8. Rules for the government of licensed boatmen under this Ordinance shall from time to time be prepared by the Master Attendant, which rules, when approved by the Minister and published in the Gazette shall have the effect of law and the Master Attendant shall cause every licensed boatman and the tindal of every licensed boat to be furnished with a copy of such rules in the Sinhala, Tamil and English languages.

(h) any licensed boatman who shall use or exhibit any badge other than his own,

and the offender shall be liable to a penalty not exceeding twenty rupees, or to imprisonment, with or without hard labour, for any period not exceeding one month. Penalties.

Offences.

9. The following shall be offences under this Ordinance;—

10. If any licensed boatman shall be convicted of any offence against this Ordinance, the Master Attendant may, in addition to any penalty which may have been imposed upon the offender, suspend or cancel the licence of such boatman, and any boatman whose licence shall have been suspended as aforesaid shall, for the purpose of this Ordinance, during the period of such suspension, be deemed an unlicensed person. Master Attendant may suspend or cancel boatman's licence.

(a) any person who shall employ, or permit to be employed, or to act or to serve as a boatman, or as one of the crew, or in any capacity on board of a licensed boat, any unlicensed person;

11. When the licence of any boatman shall have expired and shall not have been renewed, or when it has been cancelled or suspended under the provisions of section 10, the Master Attendant shall cause an entry thereof to be made in the register, and the boatman whose licence shall have expired and shall not have been renewed, or whose licence shall have been cancelled or suspended, shall forthwith deliver up to the Master Attendant his licence and badge, and it shall be the duty of the Master Attendant to return to the person whose licence shall have expired and shall not have been renewed, or whose licence shall have been cancelled, the original cost of such badge, and to return to the person whose licence has been suspended his licence and badge, when his period of suspension has expired; and any licensed person who shall neglect or refuse to deliver up his licence and badge as required by this section shall be liable to a penalty not exceeding twenty rupees, or to imprisonment, with or without hard labour, for any period not exceeding one month. When boatman's licence has been cancelled or suspended, entry thereof to be made in register, and licence and badge to be delivered up. Cost of badge to be returned when licence expires.

(b) any unlicensed person who shall be employed, or who shall act or serve as a boatman, or as one of the crew, or in any capacity on board of a licensed boat;

(c) any licensed boatman who shall violate any rule to be made under the authority of this or the principal Ordinance;

(d) any licensed boatman who shall act as such without wearing his proper badge exposed in a conspicuous manner;

(e) any licensed boatman who shall disobey any lawful order given by the Master Attendant;

(f) any licensed boatman who, while employed as such, shall use violent or abusive language to any passenger or who shall threaten or molest any passenger, or who shall by any means extort any money from any passenger;

12. Any Magistrate's Court shall have jurisdiction over any offence against this Ordinance. Any Magistrate's court to have jurisdiction over offences.

[Section 5.]

SCHEDULE

Licence No.....

By the Master Attendant of the port of.....

This is to license as a boatman, under the Boatmen's Ordinance for the port of..... for the period of .'. . . . ' . . . ; from the date hereof.

Dated

A.B.,
Master Attendant.

CHAPTER 535

BOATS

Ordinance. AN ORDINANCE TO CONSOLIDATE THE LAW REGULATING THE CARRIAGE OF PASSENGERS AND GOODS BY BOAT,
 Nos. 4 of 1900,
 14 of 1907,
 32 of 1916,
 61 of 1939,
 3 of 1946.

[21st March, 1900.]

Short title. **1.** This Ordinance may be cited as the Boats Ordinance.

making such inquiry as he shall deem necessary, that such boat is in good order and fit to be used for the purpose of carrying goods or passengers or both. as the case may be, shall issue a licence to the owner of such boat.

CHAPTER I

THE LICENSING OF BOATS

Boats to be licensed. **2.** Subject to the provisions contained in section 28, no boat shall be used for carrying goods or passengers for hire from any port* or place in Sri Lanka to any other port or place in Sri Lanka, or in any portion of the sea adjacent to Sri Lanka, or in any river, canal, lake, or inland water within the same, unless the owner thereof shall have obtained a licence for the same from the proper authority having jurisdiction within the province or town in which such owner resides or exercises his calling under the provisions of this Ordinance.

(2) If it shall become necessary to license any boat belonging to two or more persons in partnership, or to a corporate body, or to a joint stock company, such application may be made by one of the partners, or by the persons managing the affairs of such partnership, body, or company.

4. (1) Each licence for a boat shall bear a stamp of three rupees, such stamp to be supplied by the party applying for the licence. Licence to be stamped,

Proper authority to issue licence on application and after inquiry. **3.** (1) Any owner of a boat who may be desirous of obtaining a licence to use such boat for the purpose of carrying goods or passengers for hire shall make an application in writing to that effect to such proper authority, which application shall be substantially in the form D in the Schedule, and shall state accurately the cargo capacity of, and the number of passengers (if any) intended to be carried in, such boat, the length, breadth, and depth of such boat, the number of the crew to be carried by such boat, and whether such boat is propelled by steam or otherwise, and the class of boat for which such licence is desired, and shall contain a true and full description of the names and residences of the owners or owner of the boat. Every such application shall be signed by the applicant, and the proper authority on being satisfied, after

(2) The licence for passenger boats shall be substantially in the form A in the Schedule, the licence for cargo boats shall be substantially in the form B in the Schedule and the licence for boats carrying both passengers and cargo shall be in the form C in the Schedule. Every such licence shall specify the cargo capacity of such boat and the number of passengers, if any, to be carried by such boat, the number of the boat, and the number of the crew, the places between which such boat may ply, and the name of the boat, if any. Form and duration of licence.

(3) Each licence shall be in force until the thirty-first day of December in the year in and for which the same shall be granted, and no longer.

5. The proper authority shall number each licence issued by him consecutively, commencing at the beginning of every year Licence to be numbered and registered.

* Application modified in " specified ports " under section 2 of the Sri Lanka Ports Authority Act.

with the number 1, and shall keep a book in which he shall register all the particulars stated in the licence granted by him, and every entry in such register shall be numbered in accordance with the number of the licence to which it has reference. Any authenticated copy or extract from the register shall be deemed prima facie evidence of the facts stated therein.

Proper authority may withdraw licence.

6. It shall be lawful for the proper authority to withdraw a licence, after the same shall have been issued, if he has reason to believe that a boat is out of repair and not fit to be used for the purpose for which it was licensed, or if the owner shall commit any breach of the provisions of this Ordinance or the by-laws made thereunder :

Provided that when the proper authority withdraws a licence after it is issued, he may, if satisfied that the boat has been repaired and is fit to be used for the purpose of carrying goods or passengers, reissue such licence free of stamp duty.

Number of boat to be painted thereon.

7. The owner of every boat shall paint or cause to be painted, and shall keep painted, in arable figures, and not less than nine inches in length, in white or yellow on a black ground, or in black on a white or yellow ground, on a conspicuous part on both sides of the bow of such boat, in a legible and distinct manner, the number of such boat as mentioned in the licence, preceded by a distinguishing letter in Sinhala denoting the port or place of registry; and in the case of any boat propelled by a sail or sails, such number and letter shall be similarly painted on such sail or sails; and the licence of such boat may be withheld until it is so marked.

Notice of transfer to be given.

8. In case any boat so licensed as aforesaid shall be transferred to another by sale, gift, or otherwise, the person to whom the same shall be so transferred shall notify the same to the proper authority, in order that such transfer may be entered in the book of licences and a new licence issued to the person to whom it shall be so transferred.

Notice to be given if boat destroyed or rendered unfit for use.

9. If any boat shall be sunk, destroyed, or rendered wholly unfit for use, the owner thereof shall notify the same to the proper authority, in order that the number may be erased from the book of licences.

Owner to have original licence.

10. The original of the licence shall be retained by the owner of the boat, but the person in charge of the boat shall have the

duplicate of such licence, and be ready to produce the same whenever thereunto required.

11. The proper authority may, on his being satisfied that any licence has been lost or destroyed by accident, issue an exemplification of the licence on the application of the owner of the boat.

Proper authority may issue licence, &c.. in place of one lost or destroyed.

12. (1) The proper authority shall and he is hereby required to keep a book or books in which shall be entered the lists of the boats licensed under this Ordinance, with all necessary particulars.

Books and lists to be kept of boats licensed.

(2) It shall be lawful for any person at any time, during office hours, to demand inspection of the said lists, and also to take copies or extracts therefrom.

Inspection.

13. (1) Where any boat in respect of which stamp duty is payable under this Ordinance is ordinarily used or to be used within any limits enumerated in the schedule to this section, such stamp duty shall be payable and shall be disposed of in accordance with the said schedule :

Stamp duty payable under Ordinance how disposed of.

Provided that no owner of a boat shall be required to pay any stamp duty more than once in respect of any one year for the same boat.

(2) In case any question arises as to the authority to which the said stamp duty is payable, such question shall be referred to the Minister for decision, and the decision of the Minister shall be final.

(3) Any provision of the disposal of such stamp duty contained in any Ordinance relating to the powers and duties of local authorities which is inconsistent with any of the provisions of this section is hereby repealed.

SCHEDULE

<i>Limits</i>	<i>Authority to whom Stamp Duty is payable</i>	<i>Funds to which Duty is to be credited</i>
Municipal town	Mayor of the Municipal Council	Municipal Fund.
Urban Council	Chairman of the Urban Council	Local fund.
Town Council	Chairman of the Town Council	Local fund.

CHAPTER II

LIABILITIES OF OWNERS OF BOATS

Liabilities of the owners of licensed boats.

14. The owner of every licensed boat used for the conveyance of goods for hire shall, in the absence of any specified contract between him or the person in charge of such boat and any other party for the conveyance of such goods, be liable for any loss of or injury to any goods, articles, or property whatsoever delivered to be carried therein for hire, which shall be occasioned by the neglect or misconduct of such owner or of any boatman, book-keeper, or other person or servant in his employ or in charge of any such boat; and such liability shall be deemed to continue in the person who shall have made the application under section 3, unless and until he shall have given the notice of transfer required by section 8 :

Provided, however, that nothing in this section contained shall be construed to limit or in anywise affect the liability of any such owner as a common carrier, if he shall be such.

Not liable for loss of certain goods above fifty rupees unless delivered as such.

15. No such owner shall be liable for the loss of or injury to any article or articles or property of the description following, that is to say—gold or silver coin of this or any other country, or any gold or silver in a manufactured or unmanufactured state, or any precious stones, jewellery, watches, clocks, or timepieces of any description, trinkets, bills of exchange, orders, notes, or security for payment of money, stamps, maps, writings, title deeds, paintings, engravings, pictures, gold or silver plate or plated articles, glass, china, opium, silks in a manufactured or unmanufactured state, and whether or not wrought up into other material, or lace, or any of them, contained in any parcel or package which shall have been delivered to be carried for hire, or to accompany the person of any passenger, when the value of such article or articles or property aforesaid contained in such parcel or package shall exceed the sum of fifty rupees, unless at the time of delivery thereof at the office, warehouse, or receiving house of such owner, or to such owner or his boatman, book-keeper, or other servant, for the purpose of being carried, or of accompanying the person of any passenger

as aforesaid, the value and nature of such article or articles or property shall have been declared by the person sending or delivering the same, and such increased charge as hereinafter mentioned, or an engagement to pay the same, be accepted by the person receiving such parcel or package.

16. When any parcel or package containing any of the articles above specified shall be so delivered and its value and contents declared as aforesaid, and such value shall exceed the value of fifty rupees, it shall be lawful for the person receiving the same for carriage on hire to demand and receive an increased rate of charge, to be notified by some notice affixed in legible characters in some public and conspicuous part of the office, warehouse, or other receiving house where such parcel or package was received for the purpose of conveyance, stating the increased rates of charge required to be paid over and above the ordinary rate of carriage as a compensation for the greater risk and care to be taken for the safe conveyance of such valuable articles; and all persons handing or delivering any such parcel or package at any such office shall be bound by such notice without further proof of the same having come to their knowledge.

Increased rate of charge for such goods.

17. Whenever any goods shall have been received for conveyance for hire by any licensed boat, whether the same be such goods as are mentioned in section 15 or other goods, the person receiving the same for conveyance on hire shall, if thereto required when the rate of conveyance shall have been paid, or an engagement to pay the same shall have been accepted, sign a receipt for the said goods, setting out therein the name and residence of the owner ; and if such receipt shall not be given when required, the person so receiving the same for conveyance, in addition to any other liability which he may incur by such refusal, shall not have or be entitled to any benefit or advantage under section 15, and shall be liable to refund any increased rate of charge he may have received in respect of the goods specified therein, and shall further be liable to a fine not exceeding twenty rupees.

Carriers to give receipts.

Penalty in case of neglect.

Publication of notice not to limit liability of carrier.

18. No public notice or declaration by the owner of any licensed boat shall be deemed or construed to limit or in anywise affect his liability as aforesaid for or in respect of any articles or goods to be conveyed by him, but all and every such owner shall be liable to answer for the loss of or any injury to any articles and goods in respect whereof they may not be entitled to the benefits of section 15, any public notice or declaration by them made and given in anywise, limiting such liability to the contrary notwithstanding.

Anyowner may be sued.

19. Any one or more of the owners of any licensed boat shall be liable to be sued by his or their name or names only; and no action or suit commenced to recover damages for loss or injury to any parcel, package, or person shall abate for the want of joining any co-proprietor or co-partner in such boat.

Partiesentitled to damages may also recover extra charges.

20. Where any such goods as are mentioned in section 15 shall have been delivered as aforesaid, and the value and contents declared as aforesaid, and the increased rate of charge (if any) paid, and such goods shall have been lost or damaged, the party entitled to recover damages in respect of such loss or damage shall also be entitled to recover such increased charge so paid as aforesaid, in addition to the value of such goods.

Owner liable for thefts committed by his servants, &c.

21. Nothing in section 15 of this Ordinance contained shall be deemed to protect the owner of any licensed boat from liability to answer for loss or injury to any goods or articles whatsoever arising from theft or fraudulent conduct of any boatman, book-keeper, or other person or servant in his employ or in charge of such boat, or to protect any boatman, book-keeper, or other person or servant from liability from any loss or injury occasioned by his or their own personal neglect or misconduct.

Owner liable to such damages only as are proved

22. No owner of any licensed boat shall be concluded as to the value of any goods whereof the value shall be declared in pursuance of section 15, but he shall in all cases be entitled to require from the party suing in respect of any loss or injury proof of the actual value of the said goods by the ordinary legal evidence; and such owner shall be liable to such damages only as shall

be proved as aforesaid, not exceeding the declared value, together with the increased charges as aforesaid.

23. All goods and merchandise sent by any licensed boat for the purpose of delivery at any place within Sri Lanka shall, in the absence of any special contract to the contrary, be delivered according to the direction thereof within twenty-four hours after the arrival of any such boat at the place of delivery, and in default thereof the owner of such boat shall forfeit and pay for every such offence any sum not exceeding twenty rupees.

Goods sent by boats to be delivered within twenty-four hours.

CHAPTER III

MISCELLANEOUS

24. It shall be lawful for the Minister, from time to time, or at any time, to make, and when made revoke, add to, or alter regulations for any of the following purposes:—

Regulations.

- (a) for regulating the number and description of lights to be carried by any class of boats used for the purposes of carrying passengers or goods;and
- (b) for limiting the pace of such boats; and
- (c) generally for providing for the safety and comfort of the passengers conveyed by any such boat; and
- (d) for providing for the issue of licences to the tindals of such boats; and
- (e) for the recalling and taking away of such licences in case of misconduct; and
- (f) for regulating the number of boatmen to be employed in such boats.

25. Any regulation when made, added to, or altered shall be published in the Gazette, and when so published shall, until the same is revoked in manner aforesaid, be as valid, legal, and effectual as if such regulation had been inserted in this Ordinance,

Publication of regulations.

Penalties.

26. Any person committing any of the following acts shall be guilty of an offence, and shall on conviction be liable to a fine not exceeding one hundred rupees:—

- (a) neglecting or omitting to specify truly in the application required by section 3 the name of any person who shall be an owner or part owner of any boat;
- (b) neglecting or omitting to paint or to cause to be painted or to keep painted on any licensed boat the number and letter prescribed by section 7, in the manner therein enacted, during the continuance of such licence;
- (c) neglecting or omitting to paint or to cause to be painted or to keep painted on the sail or sails of any licensed boat propelled by a sail or sails the number and letter prescribed by section 7, in the manner therein enacted, during the continuance of such licence;
- (d) using a boat for the purpose of carrying goods or passengers for hire without licence, or after such licence shall have expired ;
- (e) refusing to allow or to permit any person deputed by the proper authority in writing under this Ordinance to examine any boat for the purpose of reporting thereon to the proper authority;
- (f) permitting or suffering more passengers or persons to enter a boat than such boat is authorized by the licence to carry;
- (g) loading or suffering or permitting to be loaded in any boat goods or cargo in excess of the cubic measurement or weight stated in the application required by section 3 as the cargo capacity of such boat;
- (h) plying a boat licensed under this Ordinance for hire in any port which has been declared by

Proclamation or Order to have been brought within the provisions of the Masters Attendant Ordinance, without having obtained a licence under such Ordinance >

- (i) committing a breach of any regulation made under the provisions of this Ordinance.

27. Nothing in this Ordinance contained shall authorize any proper authority to issue a licence to any owner of a boat to use a boat for the purpose of the conveyance of goods or passengers for hire in any port which has been declared by Proclamation or Order to have been brought within the provisions of the Masters Attendant Ordinance, nor shall the owner of any boat used for the purpose of conveying goods or passengers for hire in any port which has been duly licensed under the provisions of the said Ordinance, whilst plying for hire within the limits of such port, be subject to the provisions of this Ordinance or be liable to prosecution for the breach of any provision herein.

Saving clause

28. The Minister may by notification in the Gazette delegate the enforcement and execution of any provisions of this Ordinance in respect of boats which are used for carrying passengers by sea from any port or place to any other port or place to the Master Attendant* or Collector of Customs at any such port or place, and may authorize such Master Attendant* or Collector of Customs to perform all or any of the powers and duties vested in and imposed on the proper authority under this Ordinance, subject to such restriction as the Minister may from time to time think fit to impose.

Execution of Ordinance may be delegated to Master Attendant* or Collector of Customs.

29. If in any prosecution or proceeding under this Ordinance any question shall arise as to whether any boat has been used for the conveyance of any passengers or goods for hire without a licence, or as to whether a licence has been obtained for any boat within the meaning thereof, or as to whether any person has made the declaration required by section 3, the proof that such passengers or goods were not

Proof of licence to be on the accused.

*" Master Attendant" shall be deemed to be a reference to the Ports Authority in the application of this provision to any " specified port " within the meaning of section 2 of the Sri Lanka Ports Authority Act—See section 86 (3) thereof.

conveyed for hire. or in the case of goods that the goods belong to himself, or that licence has been obtained or the declaration made, shall be upon the accused or the party against whom such prosecution or proceeding shall be had :

commenced within one month from the time of the commission of such offence.

33. The provisions of this Ordinance shall not apply to boats the property of the State or of Urban Councils, or Town Councils, or of Village Councils. Certain boats exempted from the Ordinance.

Provided that it shall be lawful for the court to award a reasonable sum in lieu of costs to the accused against any person who may have made a vexatious complaint, and such sum shall be recovered in like manner as any fine imposed under the provisions of this Ordinance.

34. In this Ordinance, unless the context otherwise requires— Interpretation.

Burden of proof.

30. Where a person is charged with any offence against paragraph (d) of section 26, and it is established by the prosecution to the satisfaction of the court that there were more persons carried in such boat than were necessary for its working, such person shall be presumed to have used such boat for the purpose of carrying passengers for hire, unless and until he shows to the satisfaction of the court before which he is charged that none of the persons in such boat were carried for hire.

"boat" shall include all boats, *padas*, *dhonies*, *kulla* boats, *battals*, *ballams*. canoes, and catamarans, whether propelled by steam or otherwise, and used in the sea adjacent to, or in the rivers, canals, lakes, and inland waters of Sri Lanka;

Informer's share of penalty.

31. The court before which the prosecution or proceeding is taken may award any share of the fines actually recovered and realized, not exceeding one-half, to be paid to the informer.

"Collector of Customs" shall include the Principal Collector, Deputy Collector, Assistant Collector, or other principal officer of customs of any port or place ;

Limitation of prosecution.

32. No prosecution shall be instituted against any person for any offence committed against any of the provisions of this Ordinance, cognizable by the Magistrate's Court, unless the same shall be

"goods or passengers" shall include goods and passengers;

"port" shall include all harbours, roadsteads, and places of anchorage in Sri Lanka;

"proper authority" shall include the Government Agent of any administrative district, the Mayor of any Municipal Council, or the Chairman of any Urban Council or Town Council.

SCHEDULE

Form A

[Section 4.]

LICENCE FOR PASSENGER BOAT

Whereas A. B. of in the Province, has applied for a licence under the Boats Ordinance, for the carriage of passengers for hire. and has made and signed the application thereby required : licence is hereby granted unto the said -to use the boat hereunder described for the purpose aforesaid from the date hereof until the thirty-first day of December next.

The boat for which this licence is granted bears No, is named the and shall be manned by a crew of not more than or less than persons.

Shall not carry more than passengers on any one voyage or trip. Has a cargo capacity of not less than -

(Signed)

Proper Authority.

BOATS

[Cap. 535

Form B

[Section 4.]

LICENCE FOR CARGO BOAT

Whereas A. B., of in the Province, has applied for a licence under the Boats Ordinance, for the conveyance of goods for hire, and has made and signed the application thereby required : licence is hereby granted unto the said , - to use the boat hereunder described for the purpose aforesaid from the date hereof until the thirty-first day of December next.

The boat for which this licence is granted bears No. is named the , and shall be manned by a crew of not more than or less than persons.

Has a cargo capacity of not less than - .. cubic feet by measurement and not more than..... tons by weight. Is not licensed to carry passengers.

(Signed).....
Proper Authority.

Form C

[Section 4.]

LICENCE FOR PASSENGER AND CARGO BOATS

Whereas A, B; of in the,... Province, has applied for a licence under the Boats Ordinance, for the conveyance of passengers and goods for hire, and has made and signed the application thereby required : licence is hereby granted unto the said to use the boat hereunder described for the purposes aforesaid or either of them from the date hereof until the thirty-first day of December next.

The boat for which this licence is granted bears No., is named the .-....., and shall be manned by a crew of not more than or less than persons.

Shall not carry more than passengers on any one voyage or trip. Has a cargo capacity of not more than cubic feet by measurement and not more than tons by weight.

(Signed).....
Proper Authority.

Form D

[Section 3.]

APPLICATION CONTAINING PARTICULARS OF BOAT

I, A, B. Of , do truly declare as follows :—

[am the owner (Joint owner, or manager, *as the case may be*) of the boat hereunder described, and I desire a licence for the said boat for the conveyance of passengers (or goods, or passengers and goods) for hire between and for the period of one year (*or as the case may be*) from the day of 19

The boat for which the licence is required is named the will be manned by a crew of not more than or less than , , - persons- Is propelled by steam (*or as the case may be*), has a superficial area of feet sufficient for the carriage of passengers and crew, or persons in all.

Has a cargo capacity of cubic feet by measurement and tons by weight, is feet long from bow to stern, is feet broad amidship, is feel deep amidship.

Declared at .the . day of 19

(Signed) A. B.

CHAPTER 129

BIRTHS AND DEATHS

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE REGISTRATION OF BIRTHS, DEATHS, AND STILL-BIRTHS.

Acts Nos. 17 of 1951, 12 of 1952, 15 of 1953, 30 of 1954, 22 of 1955,

Laws Nos. 40 of 1975, 41 of 1975, 23 of 1978.

[1st August, 1954.]

Short title. 1. This Act may be cited as the Births and Deaths Registration Act. Deaths (hereinafter referred to as an "Assistant Registrar-General").

PART I

ADMINISTRATION

Appointment of Registrar-General and his duties. 2. (1) There may be appointed a person to be or to act as Registrar-General of Births and Deaths for Sri Lanka (hereinafter referred to as the "Registrar-General").

(2) The Registrar-General for the time being shall be vested with the general control and superintendence of the registration of births, deaths, and still-births in Sri Lanka, and of all persons appointed for, and engaged in, carrying out the provisions of this Act.

Appointment of Deputy Registrar-General and his duties. (3) There may be appointed a fit and proper person to be or to act as a Deputy Registrar-General of Births and Deaths.

[§§ 2 and 3, Law 23 of 1978.] (4) The Deputy Registrar-General may, subject to the authority and control of the Registrar-General for the time being, exercise, perform or discharge any power, duty or function conferred or imposed upon such Registrar-General by or under this Act or by or under any other written law.

Appointment of Assistant Registrars-General and their duties. 3. (1) There may from time to time be appointed a fit and proper person or each of two or more such persons to be or to act as an Assistant Registrar-General of Births and

(2) An Assistant Registrar-General may, subject to the authority and control of the Registrar-General for the time being, exercise, perform or discharge any power, duty or function conferred or imposed upon such Registrar-General by or under this Act.

4. (1) For each district there shall be a District Registrar of Births and Deaths (hereinafter referred to as the "District Registrar"). Registrars.

(2) The Government Agent of a district shall be the District Registrar for that district.

(3) Every Additional Government Agent, Assistant Government Agent, Additional Assistant Government Agent and Office Assistant to a Government Agent, of a district shall be an Additional District Registrar for that district.

(4) There may be appointed any person as a District Registrar or as an Additional District Registrar in addition to or in place of any officer who is a District Registrar or an Additional District Registrar by virtue of the preceding provisions of this section.

(5) Every District Registrar within his district—

- (a) shall have and may exercise and discharge the powers and duties conferred or imposed on a registrar of a division; and
- (b) shall superintend, subject to the direction of the Registrar-General, the registration of births, deaths, and still-births, and the registrars officiating within such district, and all other persons appointed for or engaged in carrying out the provisions of this Act within such district.

Registration divisions.

5. (1) The Minister may, by Notification published in the Gazette, divide the several administrative districts of Sri Lanka into such divisions, for the purposes of the registration of births and deaths, as may appear to him to be expedient, and may at any time by a like Notification amend, alter or abolish any such division.

(2) Every reference to any revenue district in any Notification made under subsection (1) of this section before the commencement of the Administrative Districts Act shall, after the commencement of that Act, be construed as a reference to the administrative district consisting of the area which constituted that revenue district.

Appointment of registrars, deputy registrars, &c.

6. (1) There may be appointed (whether by name or by office), for each division into which the administrative districts of Sri Lanka are divided, or are deemed to have been divided, under section 5 (hereinafter referred to as a "division"), a registrar and a deputy registrar, and in the prescribed circumstances and for such period as may be specified in the appointment, an acting registrar and an acting deputy registrar.

(2) Every appointment referred to in subsection (1), which is made by reference to office, not being an acting appointment, shall be notified in the Gazette.

(3) No person shall be appointed to be, or to act as, a registrar or a deputy registrar of a division, situated in an area in which Part V of this Act applies, unless he is a registered medical practitioner or is a registered ayurvedic practitioner registered or deemed to be registered under the Ayurveda Act, or is a person holding a certificate of competency issued by the Director of Health Services.

(4) Every acting registrar and every deputy registrar for the time being—

- (a) shall have the powers conferred on a registrar by or under this Act, and may exercise those powers;
- (b) shall perform the duties imposed on a registrar by or under this Act; and
- (c) shall be subject to the liabilities and penalties imposed on a registrar by this Act,

7. Every registrar and deputy registrar for the time being shall, as long as they hold office, be deemed to be public servants within the meaning of the Penal Code.

Registrars deemed to be public servants.

8. (1) Every registrar shall dwell in his division and have an office or offices in such convenient place or places in that division as may be appointed in that behalf by the District Registrar of the district in which the division is situated:

Residence and office of registrar.

Provided that such District Registrar may, in the special circumstances of any case and with the prior approval of the Registrar-General, authorize a registrar to dwell or have his office or offices outside his division.

(2) Every District Registrar shall notify to the Registrar-General the residence and office or offices of every registrar whose division is situated within his district as soon as such registrar is appointed or as soon as such registrar has changed his residence or office.

(3) The registrar shall attend at his office or each of his offices on such days and during such hours as may be fixed by the Registrar-General or by the District Registrar of the district in which that division is situated; and he shall cause a board bearing his name, the words "Registrar of Births and Deaths", the name of his division, his days of attendance and his hours of work, in legible characters in the Sinhala, Tamil and English languages, to be exhibited in a conspicuous place at or near the entrance of his office, and in case he has more than one office, at or near the entrance of each of his offices.

Annual list.

9. The Registrar-General may from time to time publish in the Gazette a list of the Registrars of Births and Deaths in Sri Lanka, with their names and the names of their divisions and of their office or offices, and may cause such list to be exhibited conspicuously in the offices of the District Registrars.

Registrar, or registrar, as the case may be, that it is issued under the provisions of section 11A :

Provided, however, that a registration entry under Part V in respect of a still-birth shall be kept only in the original.

PART II

GENERAL PROVISIONS RELATING TO THE REGISTRATION OF BIRTHS, DEATHS, AND STILL-BIRTHS

Duty of registrar to register births, deaths, and still-births.

10. (1) It shall be the duty of every registrar to inform himself carefully of every birth and death occurring in his division, and to register accurately and with all convenient despatch in the language specified for the purpose by the Registrar-General, in the registers provided by him, the particulars of the matters set out in forms A and B of the Schedule.

11. (1) Every registrar of a division shall, at the end of each period fixed in that behalf by the Registrar-General, send to the District Registrar of the district in which that registrar's division is situated for transmission to the Registrar-General for custody in his office—

Transmission of duplicates to Registrar-General.

(a) the duplicate of every registration entry made by such registrar in that division during such period ; and

(b) if no such entry was made during the period, a certificate to that effect:

Provided that a registrar shall send that duplicate or certificate direct to the Registrar-General, if such registrar is so directed in writing by the Registrar-General.

(2) It shall be the duty of the registrar of a division which is or is within an area in which Part V of this Act applies, to inform himself carefully of every still-birth occurring in his division, and to register accurately and with all convenient despatch, in the language specified for the purpose by the Registrar-General, in the registers provided by him, the particulars of the matters set out in form C of the Schedule.

(2) Every District Registrar shall, at the end of each period fixed in that behalf by the Registrar-General, send to him for custody in his office—

(a) the duplicate of every registration entry made by such District Registrar during that period; and

(b) if no such entry was made during the period, a certificate to that effect.

[§ 3, Law 41 of 1975.]

(3) Every registration entry consisting of the particulars registered under the preceding provisions of this section—

(a) shall be made in the order of time in which those particulars were given to the registrar;

(b) shall be numbered consecutively and shall be signed by the officer making the entry ; and

(c) shall be prepared in triplicate, that is to say, the original, the second copy (hereinafter referred to as the "duplicate"), and a third copy which shall bear an endorsement under the hand of the District Registrar, Additional District

11A. Where a registration entry is made in triplicate in accordance with the provisions of this Act by the registrar of a division or by a District Registrar or by an Additional District Registrar on particulars furnished by an informant, such registrar or District Registrar or Additional District Registrar shall forthwith, free of charge, deliver or transmit by post to such informant, the third copy of that registration entry.

Issue of free copy of birth and death registration entry. [§ 3, Law 41 of 1975.]

12. (1) Where the original of a registration entry (prepared under this Act or under any past enactment) is lost, damaged, illegible or in danger of becoming illegible, and the duplicate is available, the

Replacement of the original entry or duplicate entry in certain circumstances.

Registrar-General may, after due inquiry, cause to be substituted therefor a copy of the duplicate certified by him to have been made after verification with the duplicate and to be a true copy of the duplicate.

(2) Where the duplicate of a registration entry (prepared under this Act or under any past enactment) is lost, damaged, illegible or in danger of becoming illegible, and the original is in the custody of a District Registrar, the Registrar-General may, after due inquiry, cause to be substituted therefor a copy of the original certified by the District Registrar to have been made after verification with the original and to be a true copy of the original.

(3) Where the duplicate of a registration entry (prepared under this Act or under any past enactment) is lost, damaged, illegible or in danger of becoming illegible, and the original is in the custody of a registrar of a division, the Registrar-General may, after due inquiry, cause to be substituted therefor a copy of the original certified by that registrar to have been made after verification with the original and to be a true copy of the original and countersigned by the District Registrar in whose district that division is situated.

Replacement of an entry when both the original and duplicate are lost, damaged, or illegible.

13. (1) Where both the original and the duplicate of a registration entry (prepared under this Act or under any past enactment) are lost, damaged, illegible or in danger of becoming illegible, the Registrar-General may, upon the production of a declaration, made in accordance with the provisions of subsection (2), or of his own motion, and after such inquiry as he may think necessary, cause to be substituted therefor copies of such original and duplicate bearing his certificates setting out the reasons for such substitution and the sources from which the particulars specified in such copies were obtained :

Provided, however, that where both the original and the duplicate are lost or illegible, copies shall not be substituted as aforesaid unless—

(a) the Registrar-General has made a full report to the appropriate Family Court setting out the reasons for the proposed substitution, the

particulars proposed to be substituted and the evidence upon which the particulars have been obtained; and

(b) the Family Court has, after holding such inquiry and giving such notice as the court may consider requisite, sanctioned such substitution as the court may deem proper.

No stamp duty shall be payable on any proceedings before a Family Court under this subsection.

(2) The declaration referred to in subsection (1) shall—

(a) be made in writing;

(b) be made by the person upon whose information the original entry was made or any credible person having knowledge of the truth of the particulars relating to such entry;

(c) be made before the Registrar-General or any District Registrar; and

(d) set out the reasons why substituted copies are necessary and the sources and nature of the information (relating to the particulars to be specified therein) upon which the declarant relies.

14. (1) The Registrar-General shall cause every copy substituted under section 12 or section 13 to be filed and preserved.

Substituted copies deemed to be originals or duplicates, &c.

(2) Every copy certified in accordance with the provisions of section 12 (1) or section 12 (2) or section 13, or certified and countersigned in accordance with the provisions of section 12 (3) shall be deemed for the purposes of this Act to be the original or duplicate, as the case may be, which it replaces.

PART III

REGISTRATION OF BIRTHS

15. Subject to the provisions of subsection (1) of section 20, the father or mother of every child born alive, and in case the parents of the child are unable to provide the information relating to the birth hereinafter specified by reason of their

Obligation on certain individuals to give information about birth in person.

death, illness, absence or other inability recognized by the Registrar-General, the occupier of the house or building in which the child was born, each person present at the birth and the person having charge of the child shall, within forty-two days of the date of the birth, give information of such of the particulars relating to the birth required under this Act to be registered as the informant possesses, to the appropriate registrar and shall, if called upon by the registrar, sign the register of births in the appropriate place in the presence of the registrar.

This section shall apply to a birth which has occurred not earlier than forty-two days before the appointed date in like manner as it applies to a birth occurring on or after that date.

When and how information about birth may be given by written declaration.

16. (1) If a person required under section 15 to give particulars of a birth occurring in a division cannot conveniently attend the office of the registrar of that division, it shall be competent for such person—

- (a) to make a written declaration containing information of such of the particulars of the birth specified in form D in the Schedule as such person possesses, to affix thereon a stamp supplied by the declarant of the value of twenty-five cents and to send the declaration to the registrar of that division ; or
- (b) if such person resides in some other division, to make a declaration as aforesaid, to affix thereon stamps of the value of fifty cents to be supplied by the declarant and to send the declaration to the registrar of such other division.

(2) The registrar to whom a declaration is sent under subsection (1) may, by written notice, require the declarant to attend his office within seven days of the receipt of the notice and to supply such written or oral information as he may require.

Where a declaration under subsection (1) is sent to a registrar of a division other than that in which the birth to which the

declaration relates occurred, it shall be the duty of such other registrar to receive and attest the declaration and to send it to the registrar of the division in which the birth occurred.

(3) On receipt of a declaration relating to a birth sent to him under subsection (1) or under subsection (2) and, such other information as he may obtain under subsection (2), the appropriate registrar shall, if such birth has not already been registered, enter in the register of births the particulars relating to that birth required under this Act to be registered, and sign that register in the appropriate place. The declaration shall be attached to the duplicate of the relevant registration entry and shall be sent together with that duplicate to the appropriate District Registrar for transmission to the Registrar-General for custody in his office.

17. Subject to the provisions of subsection (2) of section 20, where any living new-born child is found exposed, it shall be the duty of the person finding such child, within seven days of such finding, and of the person in whose charge such child is placed, within seven days of the date on which such child is placed in his charge, to give to the appropriate registrar information of such of the particulars required under this Act to be registered as the informant possesses and to sign the register of births in the appropriate place in the presence of that registrar:

Information concerning birth to be given by person finding a new-born child.

Provided that any person obliged, under the preceding provisions of this section, to provide information of a birth to a registrar may, instead of providing that information to him, give the information to the nearest grama seva niladhari or to the officer in charge of the nearest police station and, if such information has been so given, the grama seva niladhari or officer shall give the information to the appropriate registrar and sign the register of births in the appropriate place.

18. (1) Where a birth occurring in a division has, from the default of the persons required to give information concerning the birth under this Act, not been registered, the registrar of that division, may, after forty-two days from the date of such birth,

Requisition by registrar of information concerning birth.

or, in any case when a new-born child is found, after seven days from the date of such finding, send a written requisition to any such person requiring him to attend personally at the registrar's office within such time (not less than seven days from the date of the receipt of the notice and not more than three months from the date of the birth or the finding) as may be specified in the notice, and to give information of such of the particulars required to be registered under this Act as he possesses and to sign the register of births in the appropriate place in the presence of the registrar.

(2) Every person to whom a requisition is sent under subsection (1) shall, unless the birth to which the requisition relates has been previously registered, comply with the terms of the requisition,

19. It shall be the duty of a registrar upon receiving from the appropriate informant at any time, not exceeding three months from the date of a birth or of the finding of a new-born child, information of any of the particulars required to be registered under this Act, to register, without fee or reward, forthwith in the prescribed form and manner such particulars (if they have not been previously registered), and to sign the register of births in the appropriate place.

20. (1) Where a birth occurs in an estate, it shall be the duty of the person or persons required by section 15 to give information relating thereto to give such information to the superintendent of the estate, within seven days of the birth, instead of to the registrar.

(2) Where any living new-born child is found exposed in an estate, it shall be the duty of the person finding such child, within twenty-four hours of such finding, and of the person in whose charge such child is placed, within twenty-four hours of his taking charge of such child, to give to the superintendent of the estate, instead of to the registrar, the information required by section 17 to be given to the registrar.

(3) Where the superintendent of an estate receives information of a birth under subsection (1), he shall, within forty-eight

hours of the receipt of the information, make, after verifying the information, a written report of the birth, substantially in the form E set out in the Schedule, to the nearest medical officer, or apothecary, appointed under the Medical Wants Ordinance, who shall send that report forthwith to the District Registrar of the district in which the estate is situated.

(4) Where the superintendent of an estate receives any information under subsection (2), he shall, within forty-eight hours of the receipt of the information, make a written report of the information, after verifying it, to the nearest medical officer, or apothecary, appointed under the Medical Wants Ordinance, who shall send that report forthwith to the District Registrar of the district in which the estate is situated.

(5) Where a District Registrar receives a report sent to him under subsection (3) or subsection (4), he shall register, in the prescribed form and manner, the particulars relating to the birth specified in that report. The superintendent of the estate who has made that report shall, for the purposes of this Act, be deemed to be the informant who supplied the aforesaid particulars and to have signed the entry, consisting of those particulars, made by the registrar.

21. (1) No person shall, in the case of an illegitimate child, as father of such child, be required to give information under this Act concerning the birth of such child.

(2) The registrar shall not enter in a register of births (kept under this Act or any past enactment) the name of any person as the father of an illegitimate child—

(a) except at the joint request' of the mother and of the person acknowledging himself as the father of the child, and unless such person signs the register together with the mother; or

(b) except upon an order of a competent court which is summarized in the register:

Provided that where a registrar for the purpose of registering a birth takes particulars relating to the birth

Duty of registrar to register births without fee or reward.

Information about, and registration of birth of, children born, or living new-born children found exposed, in estates.

Registration of illegitimate children.

from a declaration made under section 16 or section 24, or from a superintendent's report made under section 20, or from a certificate of a Magistrate or Judge of a Primary Court issued under section 49, he shall enter in such register as father of the child the name of any person acknowledging himself as such, if such person has together with the mother signed in the appropriate place such declaration, report or certificate.

(3) Except upon an order of a competent court, no person shall, after the original registration of the birth of an illegitimate child, enter in the register of births the name of any person as the father of such child.

Registrar may call for proof of marriage in certain circumstances.

22. If a registrar has reason to doubt the legitimacy of a child whose birth has been or is to be registered on information supplied by the person required under this Act to give information concerning the birth, he may give notice to any person who may be prejudiced by such registration or intended registration, to appear before him and give such information relating to the birth as he may require, and he may demand from the person required under this Act to give information concerning the birth a certified copy of the entry, relating to the marriage of the alleged parents of the child, in the marriage register, or such other proof as he may think fit; and if such copy or other proof is not produced, he shall inform the appropriate District Registrar that such copy, or other proof to his satisfaction, has not been produced, and the District Registrar may, after such inquiry as he may consider necessary, take such steps as he may deem fit.

Restriction on registration of birth after three months from occurrence.

23. No person shall, after the expiration of a period of three months immediately succeeding the date of the birth of any person, register or cause to be registered that birth except upon an order made in that behalf under section 24 by the Registrar-General or the appropriate District Registrar.

Order for registration of birth after three months from occurrence.

24. (1) In any case where the birth of any person is not registered within the period of three months immediately succeeding the date of the birth—

(a) the Registrar-General or any District Registrar or registrar may, by

notice in writing, direct any person who is required by this Act to give information concerning the birth to attend personally at the office of the Registrar-General or of a District Registrar within such time, not being less than seven days after the receipt of the notice, as may be specified in the notice, and to make before that officer a declaration of the particulars required to be registered under this Act in respect of the birth ; or

(b) any such person or any other person interested may of his own motion attend personally at the office of the Registrar-General or of any District Registrar and make before such officer a declaration of the particulars required to be registered concerning the birth.

(2) Every declaration under subsection (1) shall be made substantially in the form F in the Schedule and shall contain a statement of the particulars required to be set out in the form according to the best of the knowledge and belief of the declarant.

Every such declaration shall, if made within a period of twelve months from the date of the birth, bear a stamp of one rupee, and, if made at any time thereafter, bear a stamp of five rupees. The stamp shall be supplied by the declarant.

(3) Any District Registrar, not being the appropriate District Registrar, before whom a declaration is made under subsection (1), shall—

(a) if the declaration is made within the period of twelve months immediately succeeding the date of the birth, transmit the declaration to the appropriate District Registrar to be dealt with as provided in subsection (5), and

(b) if the declaration is made after the expiration of the said period of twelve months, transmit the declaration to the Registrar-General to be dealt with as provided in subsection (6).

(4) Where a declaration under subsection (1) is made before the appropriate District Registrar after the expiration of the period of twelve months immediately succeeding the date of the birth, the District Registrar shall transmit the declaration to the Registrar-General to be dealt with as provided in subsection (6).

(5) Where a declaration under the preceding provisions of this section is made before any District Registrar within the period of twelve months immediately succeeding the date of the birth, the appropriate District Registrar may, if he is satisfied as to the truth of the matters stated in the declaration, make order directing the appropriate registrar to enter in the register of births the particulars specified in the declaration. Any such order may be made notwithstanding that a period of twelve months has elapsed after the date of the birth.

(6) Where any declaration is made under subsection (1) before the Registrar-General or is transmitted to him under subsection (3) or subsection (4), he may, if he is satisfied as to the truth of the matters stated in the declaration and if the birth to which the declaration relates occurred not earlier than the 1st day of January, 1868, make order directing the appropriate registrar to enter in the register of births the particulars specified in the declaration.

Effect of order under section 24.

25. (1) Where an order under section 24 is made directing a registrar to enter the particulars of a birth specified in a declaration, he shall forthwith enter those particulars in the register of births and sign the register in the appropriate place. The entry so made shall be deemed for the purposes of this Act to have been signed by the person who made the declaration.

(2) Every written order under section 24 shall be attached to the duplicate of the relevant registration entry and shall be sent together with the duplicate to the appropriate District Registrar for transmission to the Registrar-General for custody in his office.

26. The provisions of section 24 shall apply to the registration of a birth which has occurred prior to the appointed date, if, but only if, the birth had occurred not earlier than the 1st day of January, 1868.

Application of section 24 to certain births occurring before the appointed date.

27. (1) Where the birth of any person has been registered without a name being specified in the registration entry at the time of the registration or if his name has been altered after that time, the Registrar-General or the appropriate District Registrar or the Additional District Registrar may, on application made in writing in accordance with the provisions of subsection (2), amend, after such inquiry as he may consider necessary, the birth registration of such person, by the substitution, addition, insertion or omission of particulars relating to his name.

Insertion or alteration of the name of a person in the register. [§ 3, Law 41 of 1975.3

(2) Every application under subsection (1) shall be—

[§ 3, Law 41 of 1975.]

(a) made by a parent or guardian of the person to whom the application relates if that person is under the age of twenty-one years, or made by that person himself if he is over twenty-one years of age ; and

(b) supported by a declaration substantially in such one of the forms G, GG, H and HH set out in the Schedule as may be appropriate, made before a Justice of the Peace or any District Registrar and bearing a stamp, supplied by the applicant, of the value of one rupee if not more than two years have elapsed since the registration of the birth and of five rupees if more than two years have so elapsed.

(3) Where an application is received under this section for the amendment of a birth registration entry of a person who at the date of the application is over seven years of age, the Registrar-General or the District Registrar considering the application shall, before he causes such amendment to be made, satisfy himself that the altered name or the name that is now being assigned has been in actual use for a period which in his opinion is reasonable.

(4) The preceding provisions of this section shall apply to a birth registered whether under this Act or under any past enactment.

(5) Where the birth of any child has been registered without a name being specified in the registration entry at the time of the registration, it shall be the duty of the father or mother of the child or of the guardian of the child to make an application under the preceding provisions of this section not later than forty-two days from the date of the registration of the birth for the insertion of particulars relating to the name of the child. The failure to make an application within the time herein specified shall not prevent the making of such an application under this section after the end of that period.

(6) Where an application under the preceding provisions of this section for the alteration or insertion of the name of a person has been made otherwise than by a parent or the lawful guardian of that person appointed by a competent court, the decision of the Registrar-General or the District Registrar upon the application shall be published in the prescribed manner at the place where that person's birth occurred and at his place of residence, and any person aggrieved by the decision may appeal to the Family Court against that decision. Every such appeal—

- (a) shall be made by petition in writing bearing a stamp of one rupee;
- (b) shall be preferred within thirty days of the date of the first publication of notice of the decision as aforesaid ; and
- (c) shall be heard and determined by the Family Court after such summary inquiry as the court may deem requisite.

The decision of the family Court upon any such appeal shall be final, and shall not be subject to an appeal to the Court of Appeal.*

(7) Notwithstanding that a right of appeal against a decision of the Registrar-

General or the District Registrar is conferred by subsection (6), the decision shall be given provisional effect by the amendment of the birth registration entry to which the decision relates but without prejudice to the duty of the Registrar-General or the District Registrar subsequently to make such further amendments as may be rendered necessary by the decision of the Family Court upon any appeal.

27A. (1) A person whose birth has been registered (whether under this Act or under any past enactment), or his parent or guardian, or a person aggrieved by any particulars in the entry relating to that birth may make a written application to the Registrar-General in accordance with the provisions of subsection (2) for an order directing—

Amendment of birth registration entry by Registrar-General. [§ 3, Law 41 of 1975.]

- (a) the alteration of all or any of the particulars in the register relating to the name, rank or profession of the father of the person whose birth has been registered or for the omission of such particulars or for the insertion of fresh particulars, in any case where the original particulars had been falsely or improperly entered; or
- (b) the insertion of the name of the father of such person, in any case where such name was omitted at the time of the original entry; or
- (c) the alteration of the names of the parents of such person, in any case where such names have been altered since the original entry was made; or
- (d) the alteration, insertion or omission of particulars relating to the marriage of the parents of such person; or
- (c) the alteration, insertion or omission of particulars in the original entry to bring such entry into conformity with the legitimate status of such a person where by virtue of the operation of the provisions of section 3 of the Legitimacy Act that person is rendered legitimate; and

* See also Article 138 of the Constitution.

(f) the making in the entry of any consequential amendments resulting from such alteration, insertion or omission.

(2) Every application under subsection (1) shall be accompanied by a written declaration in the prescribed form made before the Registrar-General or any District Registrar or any Additional District Registrar and shall bear a stamp of the value of five rupees supplied by the applicant and a certified copy of the birth registration entry in proof of the contents of the entry.

(3) On an application made in accordance with the preceding provisions of this section, for the amendment of an entry in a register of births, the Registrar-General may, after due notice to such parties and persons as may be interested, and after due inquiry held by him or by an officer authorized by him in that behalf, make such order, whether in terms of the application or otherwise, as the justice of the case may require.

(4) The order made by the Registrar-General shall be published in the prescribed manner.

(5) Any person aggrieved by the Registrar-General's order may appeal to the Family Court against that order within thirty days of the publication of notice of the order under the preceding subsection, and such appeal shall be by a petition in writing bearing a stamp of the value of five rupees.

(6) Every order of the Family Court shall be subject to an appeal to the Court of Appeal within a period of thirty days from the date on which a certified copy of the order of the Family Court is served on the Registrar-General.

(7) The Family Court shall cause a certified copy of every order made by that court or by the Court of Appeal to be served on the Registrar-General.

(8) Notwithstanding the right of appeal against an order of the Registrar-General or of the Family Court, the order of the

Registrar-General shall be given provisional effect by the amendment of the registration entry to which the order relates but without prejudice to the duty of the Registrar-General to make such further amendments as may be rendered necessary by the order of the Family Court or Court of Appeal upon any appeal, as the case may be.

(9) The procedure in regard to appeals to the Court of Appeal under this section shall be regulated by the law relating to appeals to the Court of Appeal from the Family Court.

28. (1) A person whose birth has been registered (whether under this Act or under any past enactment), or his parent or guardian, or a person aggrieved by the particulars in respect of the race of the father in the entry relating to that birth, may make a written application to the Family Court of the district in which the birth occurred for an order directing the alteration of all or any of the particulars in the register relating to the race of the father of such person, or for the omission of such particulars or for the insertion of fresh particulars, in any case where the original particulars had been falsely or improperly entered.

Amendment of birth registration entry relating to race of father. [§ 3, Law 41 of 1975.]

(2) Every application made under subsection (1) shall bear a stamp of the value of five rupees supplied by the applicant.

(3) On an application to the Family Court, in accordance with the preceding provisions of this section, for the amendment of an entry in a register of births, the Family Court may, after due notice to the Registrar-General, the appropriate registrar, and such other parties and persons as the court may think fit, and after due inquiry, make such order, whether in terms of the application or otherwise, as the justice of the case may require.

(4) Every order of the Family Court shall be subject to an appeal to the Court of Appeal within a period of thirty days from the date on which a certified copy of the order of the Family Court is served on the Registrar-General under the provisions of subsection (5).

(5) The Family Court shall cause a certified copy of every order made by that court under subsection (3) or by the Court of Appeal to be served on the Registrar-General.

(6) The Registrar-General, on receipt of a certified copy of a court order served on him under subsection (5), shall give effect to the order, and where the order includes a direction for the amendment of a registration entry, shall make or cause such amendment to be made.

PART IV

REGISTRATION OF DEATHS

29. (1) When a death occurs in a house or building the nearest relatives present at the death or in attendance during the last illness of the deceased, and, in the absence of such relatives, every other relative of the deceased dwelling or being in the same registrar's division as the deceased, and, in the absence of such other relatives, each person present at the death and the occupier of the house in which the death took place, and, in the absence of the persons hereinbefore specified in this section, the person causing the body of the deceased to be buried, cremated, or otherwise disposed of, shall, within five days of the death, give information of such of the particulars relating to the death required under this Act to be registered as is known by such person or persons to the appropriate registrar, and shall, if called upon by that registrar sign in his presence the register of deaths in the appropriate place.

(2) When a death occurs in a place other than a house or building, every relative of the deceased having knowledge of any of the particulars concerning the death required to be registered under this Act, and in the absence of such a relative every person present at the death, the person taking charge of the corpse, and the person causing the corpse to be buried, cremated or otherwise disposed of, shall, within five days from the date of the death, give information of such of the particulars relating to the death required under this Act to be registered as is known by such person or

persons to the appropriate registrar and shall, if called upon by the registrar, sign in his presence the register of deaths in the appropriate place.

(3) When a corpse is found in a place other than a house or building, every relative of the deceased having knowledge of any of the particulars concerning the death required to be registered under this Act and, in the absence of such relative, the person finding the corpse, the person taking charge of the corpse, and the person causing the corpse to be buried, cremated or otherwise disposed of, shall, within five days from the date of the finding of the corpse, give information of such of the particulars relating to the death required under this Act to be registered as is known by such person or persons to the registrar of the division in which the corpse was found and shall, if called upon by the registrar, sign in his presence the register of deaths in the appropriate place.

30. (1) If a person required under section 29 to give particulars of a death occurring in a division cannot conveniently attend the office of the registrar of that division, it shall be competent for such person to make a written declaration substantially in the form I set out in the Schedule and send such declaration to the registrar; and the declaration shall bear a stamp, supplied by the declarant, of the value of twenty-five cents.

When and how information about a death may be given by written declaration.

(2) The registrar to whom a declaration is sent under subsection (1) may, by written notice, require the declarant to attend his office within seven days of the receipt of the notice and to supply him such written or oral information as he may require.

(3) Where information relating to a death is supplied under the preceding provisions of this section, the registrar shall enter the information in the register of deaths and sign the register in the appropriate place. The declaration shall be attached to the duplicate of the relevant registration entry and shall be sent together with that duplicate to the appropriate District Registrar for transmission to the Registrar-General for custody in his office.

When and by whom information concerning a death to be given.

Certificate of medical practitioner as to cause of death.

31. In the event of the death of any person who has been attended during his last illness by a medical practitioner, a certificate in duplicate, substantially in the form J set out in the Schedule, stating to the best of his knowledge and belief the cause of the death shall be forthwith issued without fee or reward by such practitioner to the person required under this Act to give information, and such person shall, at the time he gives to the appropriate registrar information concerning the death as required by this Act, deliver such certificate to him. On receipt of the certificate, the registrar shall enter in the register the cause of death as stated in the certificate, together with the name of the medical practitioner who issued the certificate.

Requisition by registrar of information concerning death.

32. (1) Where any death which has occurred in a division has, by reason of the default of the person required under this Act to give information concerning the death, not been registered, the registrar of that division may, at any time after fourteen days but within three months of the date of such death, and, in the case of the finding of a corpse in a place other than a house or a building, of the date of such finding, send a written notice, substantially in the form K set out in the Schedule, to any such person, requiring him to attend personally at the registrar's office within such time (not less than seven days after the receipt of the notice and not more than three months of the date of the death or of the finding of the corpse) as may be specified in the notice, and to give to the registrar information of such of the particulars relating to the death required under this Act to be registered as such person possesses, and to sign the register of deaths in the appropriate place in the presence of the registrar.

(2) Every person to whom a notice is sent under subsection (1) shall, unless the death is registered before the expiry of the time specified in the notice, comply with its terms.

Duty of registrar to register deaths without fee or reward.

33. It shall be the duty of a registrar upon receiving from the appropriate informant, at any time not exceeding three months from the date of a death or of the finding of a corpse, information of any of the particulars required to be registered

Under this Act, to register, without fee or reward, forthwith in the prescribed form and manner such particulars (if they have not been previously registered), and to sign the register of deaths in the appropriate place.

34. (1) Where a death occurs in an estate, it shall be the duty of the person or persons required by section 29 to give information relating thereto to give such information to the superintendent of the estate within twenty-four hours of the death instead of to the registrar.

Registration of death occurring in an estate.

(2) Where the superintendent of an estate receives information of a death under subsection (1), he shall within forty-eight hours of the receipt of the information, make, after verifying the information, a written report of the death substantially in the form L in the Schedule, to the nearest medical officer or apothecary, appointed under the Medical Wants Ordinance, who shall send that report forthwith to the District Registrar of the district in which the estate is situated.

(3) On receipt of the report of the superintendent referred to in subsection (2), the District Registrar shall register, in the prescribed form and manner, the particulars relating to the death specified in the report. The superintendent shall, for the purposes of this Act, be deemed to be the informant and to have signed the entry, consisting of those particulars, made by the registrar.

35. No person shall, after the expiration of a period of three months immediately succeeding the date of the death of any person, register or cause to be registered that death except upon an order made in that behalf under section 36 by the Registrar-General or the appropriate District Registrar.

Restriction on registration of death after three months from occurrence.

36. (1) In any case where the death of any person is not registered within the period of three months immediately succeeding the-date of the death—

Order for registration of death after three months from occurrence.

(a) the Registrar-General or any District Registrar or registrar may, by notice in writing, direct any person who is required by this Act to give

information concerning the death to attend personally at the office of the Registrar-General or of a District Registrar within such time, not being less than seven days after the receipt of the notice, as may be specified in the notice, and to make before that officer a declaration of the particulars required to be registered under this Act in respect of the death; or

- (b) any such person or any other person interested may of his own motion attend personally at the office of the Registrar-General or of any District Registrar and make before such officer a declaration of the particulars required to be registered concerning the death.

(2) Every declaration under subsection (1) shall be made substantially in the form M in the Schedule and shall contain a statement of the particulars required to be set out in the form according to the best of the knowledge and belief of the declarant.

Every such declaration shall, if made within a period of twelve months from the date of the death, bear a stamp of one rupee, and, if made at any time thereafter, bear a stamp of five rupees. The stamp shall be supplied by the declarant.

(3) Any District Registrar, not being the appropriate District Registrar, before whom a declaration is made under subsection (1), shall—

- (a) if the declaration is made within the period of twelve months immediately succeeding the date of the death, transmit the declaration to the appropriate District Registrar to be dealt with as provided in subsection (5); and
- (b) if the declaration is made after the expiration of the said period of twelve months, transmit the declaration to the Registrar-General to be dealt with as provided in subsection (6).

(4) Where a declaration under subsection (1) is made before the appropriate District

Registrar after the expiration of the period of twelve months immediately succeeding the date of the death, the District Registrar shall transmit the declaration to the Registrar-General to be dealt with as provided in subsection (6).

(5) Where a declaration under the preceding provisions of this section is made before any District Registrar within the period of twelve months immediately succeeding the date of the death, the appropriate District Registrar may, if he is satisfied as to the truth of the matters stated in the declaration, make order directing the appropriate registrar to enter in the register of deaths the particulars specified in the declaration. Any such order may be made notwithstanding that a period of twelve months has elapsed after the date of the death.

(6) Where any declaration is made under subsection (1) before the Registrar-General or is transmitted to him under subsection (3) or subsection (4), he may, if he is satisfied as to the truth of the matters stated in the declaration and if the declaration is made not later than twenty-five years from the date of the death to which the declaration relates, make order directing the appropriate registrar to enter in the register of deaths the particulars specified in the declaration.

37. (1) Where a written order under section 36 is made to a registrar to enter the particulars relating to a death, he shall forthwith enter those particulars in the register of deaths and sign the register in the appropriate place. The entry so made shall be deemed for the purposes of this Act to have been signed by the person who made the declaration.

Effect of order under section 36.

(2) Every written order under section 36 shall be attached to the duplicate of the relevant registration entry and shall be sent, together with that duplicate, to the appropriate District Registrar for transmission to the Registrar-General for custody in his office.

38. The provisions of section 36 shall apply to the registration of a death which has occurred prior to the appointed date, if, but only if, the declaration relating to such death is made under that section not later than twenty-five years from the date of such death.

Application of section 36 to certain deaths occurring before the appointed date.

Certificate of inquirer into deaths.

39. (1) Where an inquiry into a death is held under the Code of Criminal Procedure Act the inquirer into deaths who holds the inquiry shall send to the appropriate registrar, within five days after the conclusion of the inquiry, a certificate under his hand, setting out such of the particulars of the death required under this Act to be registered as the inquirer possesses, and the time and place of the inquiry.

(2) On receipt by a registrar of the certificate referred to in subsection (1), he shall, if the death mentioned in that certificate has not been previously registered, register the particulars relating to such death in the prescribed form and manner, or, if the death has been previously registered, record in the register against the relevant original entry such particulars relating to the death as may be at variance with the particulars specified in the said original entry.

PART V

REGISTRATION OF DEATHS AND STILL-BIRTHS IN CERTAIN AREAS

Application of this Part to certain areas by Minister's Order.

40. The Minister may, by Order published in the Gazette, declare that the provisions of this Part of this Act shall, on and after a date specified in the Order, apply in any area or areas as may be defined in the Order.

Registration of deaths, and the burial, cremation or other disposal of the corpses, of persons dying within areas in which this Part applies.

41. (1) No person shall bury, cremate or otherwise dispose of, or cause to be buried, cremated or otherwise disposed of, the corpse of a person dying within any area in which this Part applies, unless there has been obtained—

- (a) a certificate, substantially in the form N set out in the Schedule, from the appropriate registrar to the effect that the notice of the death of the person whose body is to be buried, cremated or otherwise disposed of was given to him; or
- (b) the certificate of registration issued under section 42 from the appropriate registrar; or

- (c) a certificate, substantially in the form O set out in the Schedule, from a grama seva niladhari or police officer resident in the division of the appropriate registrar stating that information of such death, including its cause, was given to such registrar or to such grama seva niladhari or police officer not less than three hours before the granting of such certificate ; or
- (d) the duplicate of the certificate of a medical practitioner issued under section 31; or
- (e) a certificate, substantially in the form P set out in the Schedule, from an inquirer into deaths who has held, under the Code of Criminal Procedure Act, an inquiry into such death; or
- (f) in the case of a death occurring on an estate, a certificate, substantially in the form Q set out in the Schedule, from the superintendent of the estate, stating that he has authorized the burial, cremation or other disposal of the corpse.

(2) Every certificate obtained for the purposes of subsection (1) shall be issued forthwith in duplicate without fee or reward from the applicants.

(3) The officer or person authorized to issue any certificate referred to in subsection (1) may, before issuing the certificate, hold such inquiry as he may think necessary for the purpose of ascertaining the particulars that are to be specified in that certificate, and he may for that purpose enter into any house or land or inspect a corpse.

(4) The person in charge of a cemetery or burial ground established or registered under the Cemeteries and Burials Ordinance for an area in which this Part applies shall not permit a corpse to be buried, cremated or otherwise disposed of in such cemetery or burial ground except on the production of a certificate, or a duplicate of a certificate, referred to in subsection (1).

(5) The duplicate of the certificate of a grama seva niladhari or a police officer or a medical practitioner or an inquirer into

deaths obtained for the purposes of subsection (1) shall, within five days of the death to which the certificate relates, be sent by the person who obtained the certificate to the appropriate registrar.

(6) Where a death occurs in an estate situated in an area in which this Part applies, the superintendent of that estate shall, within five days of the death, send a certificate, substantially in the form L set out in the Schedule, to the nearest medical officer, or apothecary, appointed under the Medical Wants Ordinance, who shall send that certificate forthwith to the District Registrar of the district in which the estate is situated.

(7) A registrar, on receipt of the duplicate of a certificate sent to him under subsection (5), and a District Registrar, on receipt of the certificate sent to him under subsection (6), shall, in the prescribed form and manner, register the particulars specified in such duplicate or certificate.

Removal of corpses from areas in which this Part applies for burial, &c.

42. (1) No corpse shall be removed outside an area in which this Part applies for burial, cremation or other disposal in any place except a cemetery or burial ground established or registered for such area under the Cemeteries and Burials Ordinance, unless the person or persons required under this Act to give information concerning the death has—

- (a) given information of the death to the appropriate registrar and obtained from him, on written application made, a certificate, substantially in the form R set out in the Schedule, of the registration of the death; and
- (b) obtained written permission for the removal of the corpse from the proper authority within the meaning of the Cemeteries and Burials Ordinance or from the Government Agent or Magistrate within whose territorial jurisdiction such area is situated or from a public officer authorized in writing in that behalf by the Government Agent within whose territorial jurisdiction such area is situated :

Provided that the preceding provisions of this subsection shall not apply to a death occurring in a Government hospital or in an estate.

(2) The certificate of registration referred to in subsection (1) shall be issued without a fee except in the circumstances specified in subsection (3) or subsection (4), where the fees specified therein shall be paid to the registrar as a personal payment to be retained by him for his own use.

(3) Where the application for the certificate of registration referred to in subsection (1) is made between the hours of 6 p.m. and 6 a.m. and such certificate is issued between those hours without any inspection of the corpse, the applicant shall pay the registrar for the certificate five rupees.

(4) Where the application for the certificate of registration referred to in subsection (1) is made between the hours of 6 p.m. and 6 a.m. and such certificate is issued between those hours after an inspection of the corpse, the applicant shall pay the registrar for the certificate seven rupees and fifty cents.

43. (1) No person shall bury, cremate or otherwise dispose of, or cause to be buried, cremated or otherwise disposed of, the body of a still-born child delivered in an area in which this Part applies, unless there has been obtained—

Registration of still-births in areas in which this Part applies.

- (a) a certificate, substantially in the form S set out in the Schedule, from the appropriate registrar or from a grama seva niladhari or police officer resident in such registrar's division, stating that the occurrence of the still-birth was notified to him; or
- (b) in the case of a still-birth occurring in an estate, a certificate from the superintendent of the estate stating that he has authorized the burial, cremation or other disposal of the body; or
- (c) a certificate, substantially in the form T set out in the Schedule, from the medical practitioner in attendance

at the birth of such child or from a medical practitioner who has examined the body, stating that the child was not born alive.

PART VI

MISCELLANEOUS

(2) The certificates referred to in paragraphs (a) and (b) of subsection (1) shall be issued after such inquiry or inspection of the body of the still-born child as may be necessary and without fee or reward.

(3) A certificate relating to a still-birth obtained for the purposes of subsection (1) (other than a superintendent's certificate) shall, within five days of the occurrence of the still-birth, be sent by the person who obtained the certificate to the appropriate registrar.

(4) Where a still-birth occurs in an estate situated in an area in which this Part applies, the superintendent of that estate shall, in the prescribed form and within the prescribed period, send a written report of the still-birth to the nearest medical officer, or apothecary, appointed under the Medical Wants Ordinance, who shall send that report forthwith to the District Registrar of the district in which that estate is situated..

(5) A registrar, on receipt of a certificate sent to him under subsection (3), and a District Registrar, on receipt of a report sent to him under subsection (4), shall, in the prescribed form and manner, register the particulars specified in that certificate or report.

General Duty of registration of registrars and District Registrars in areas in which this Part applies.

44. The duty of registrars and District Registrars, officiating in the areas in which this Part applies, to register particulars of deaths and still-births under this Part shall be in addition to their duty to register, in the prescribed form and manner, particulars of deaths and still-births of which due information is given directly to them in accordance with the other provisions of this Act.

Other provisions of Act to apply also to area in which this Part applies.

45. All the other provisions of this Act shall, so far as they are consistent with the provisions of this Part, apply to every area in which this Part applies.

46. (1) It shall be the duty of every grama seva niladhari to inform himself of every birth and death occurring within his jurisdiction, and to make to the appropriate registrar, within seven days of such birth or death, a report, substantially in the form U or form V set out in the Schedule, relating to the birth or death.

Duty of grama seva niladhari to give information about births and deaths.

(2) The Minister may by Order published in the Gazette exempt the grama seva niladharis of any area specified in that Order from the obligation imposed on them by subsection (1).

47. (1) The succeeding provisions of this section shall apply in every case where a birth or still-birth occurs—

Duty of certain persons to give information relating to births and still-births occurring in certain areas to medical officers of health, &c.

- (a) in any area in which Part V applies, or
- (b) in any other area declared by Order of the Minister published in the Gazette to be an area in which those provisions shall apply.

Every Order under paragraph (b) shall specify the date on and after which those provisions shall so apply.

(2) In every case to which the provisions of this section apply—

- (a) the father of the child, if at the time of the birth or still-birth he was residing in the house where the birth or still-birth took place, and
- (b) any person in attendance upon the mother at that time or within six hours thereafter,

shall, within twenty-four hours after that time, attend the office of the medical officer of health within whose area such birth or still-birth occurred and, in regard to such birth or still-birth, give him information of such of the particulars of the matters specified in the form W set out in the Schedule as the informant possesses.

(3) If a person required by the preceding provisions of this section to give information regarding a birth or a still-birth to a medical officer of health cannot conveniently attend before that officer, such person may, send a written declaration containing such of the particulars of the matters specified in the form W set out in the Schedule as such person possesses.

(4) The information required to be given under this section shall be in addition to, and not in substitution for, any information relating to the registration of births and still-births required to be given under any other provision of this Act.

(5) Every medical officer of health who, in accordance with the provisions of this section, receives information regarding a birth or a still-birth which has occurred within his area shall, within seven days of the receipt thereof, send such information to the appropriate registrar.

(2) On receipt by the District Registrar of the certificate referred to in subsection (1), he shall, in case the birth or death or still-birth mentioned in that certificate has not been registered, cause the appropriate registrar to register the particulars specified in the certificate in the prescribed form and manner, and in case such birth or death has been previously registered, cause such registrar to record in the register against the relevant original entry such particulars as may be at variance with the particulars specified in the said original entry.

50. No correction, amendment or other alteration in any register of births, deaths or still-births shall be made except in accordance with the provisions of this Act.

Correction of registration entries.

51. The Registrar-General or any officer authorized by him in that behalf may, from time to time, subject to such rules as may be prescribed, correct any clerical error or supply any inadvertent omission in any registration entry made under this Act or under any past enactment.

Correction of clerical errors, &c.

Weekly returns or certificates to be supplied by manager or other person in charge of a private hospital or a private maternity or nursing home.

48. The manager or other person in charge of every private hospital or private maternity or nursing home shall, before Wednesday in each week, send to the appropriate registrar—

- (a) returns, substantially in the forms X, Y and Z set out in the Schedule, specifying the particulars relating to the births, deaths and still-births which have occurred in the hospital or nursing or maternity home during the preceding week, or
- (b) where no births, deaths or still-births have occurred in that hospital or nursing or maternity home during the preceding week, a certificate to that effect.

Registration consequent on certain prosecutions.

49. (1) Upon the conclusion of the trial of a person for giving false information or for not giving to the registrar information he is required to give under this Act concerning a birth or a death or a still-birth, the Magistrate or Judge of the Primary Court trying such person shall issue to the appropriate District Registrar a certificate in the form AA, or the form AB or the form AC set out in the Schedule, as the case may be.

52. (1) Where—

- (a) there is a registration entry made under this Act or under any past enactment relating to a birth, death or still-birth that did not take place; or
- (b) more than one registration entry has been made under this Act or under any past enactment in respect of the same birth, death or still-birth; or
- (c) the particulars relating to a birth, death or still-birth registered under this Act or under any past enactment has been entered in the wrong register; or
- (d) a registration entry relating to a birth, death or still-birth has been made under this Act or under any past enactment by a registrar other than the appropriate registrar; or
- (e) a registration entry has been made under this Act or under any past enactment upon information

Correction of errors other than clerical errors, &c.

given by a person other than the person required under this Act to give the information; or

(f) entries relating to a birth or death registered under this Act or under any past enactment after three months of such birth or death have not been made in accordance with the appropriate provisions of the Act or enactment; or

(g) registration entries have been left unsigned by the appropriate registrar or the person required under this Act to give the information; or

[§3, Law 41 of 1975.]

(h) there is any other error or omission of fact or substance in a birth registration entry, or where the informant has failed to furnish or has omitted, or erroneously furnished any particulars in a birth registration entry, not being an error or omission of fact or substance which can be amended under the other provisions of this Act; or

[§ 3, Law 41 of 1975.]

(i) there is any other error or omission of fact or substance in a death or still-birth registration entry or where the informant has failed to furnish or has omitted or has erroneously furnished any particulars in a death or still-birth registration entry; or

(j) by reason of damage or age, any particulars relating to a registration entry are missing or are illegible or are in danger of becoming illegible,

the Registrar-General, upon the production of a declaration made in accordance with the provisions of subsection (3), or of his own motion, and after such inquiry as he may think necessary, may—

(i) make, or direct the appropriate District Registrar or registrar to make, a note or endorsement on the margin or on the reverse side of the entry, specifying the nature of the irregularity in the entry and the true facts relating to that entry ; or

(ii) amend or rectify the entry, or direct the appropriate District Registrar to amend or rectify the entry, by the correction of errors or by the supplying of omissions or by the restoration of particulars that are missing, illegible or in danger of becoming illegible; or

(iii) make such other order as he may think fit.

(2) Where the Registrar-General under subsection (1) directs a District Registrar or registrar to make a note or endorsement or to amend or to rectify an entry, such District Registrar or registrar shall, in accordance with that direction, make such note or endorsement, or amend or rectify the entry.

(3) The declaration referred to in subsection (1) shall—

(a) be in writing;

(b) be made by the person upon whose information the entry was made or any credible person having knowledge of the true facts relating to the entry;

(c) bear a stamp of the value of one rupee if the declaration is necessary for any reason mentioned in paragraph (a) or paragraph (e) or paragraph (h) or paragraph (i) of subsection (1);

(d) be made before the Registrar-General or any District Registrar; and

(e) set out the nature of the irregularity, error, omission or other defect and the true facts relating to the entry.

53. Where an inquirer into deaths, on being satisfied by evidence on oath or affirmation, issues to the Registrar-General or the appropriate District Registrar a written declaration under his hand stating that there occurs an error of fact or substance (other than an error relating to the cause of death) in any certificate furnished, under section 39 (1), by him or by any other inquirer and stating the true facts relating to the particulars specified in the

Correction of a death registration entry on issue of a certificate by an inquirer into deaths.

certificate, the Registrar-General or the District Registrar may cause any error in a death registration entry made by reference to such certificate to be corrected in accordance with such written declaration.

thereof a stamp or stamps of such value as may from time to time be prescribed.

Manner in which amendments to an entry to be made.&c.

54. Every amendment made under section 27 or section 27A or section 28 to any entry, every particular recorded against an original entry under section 39 or section 49, every correction or insertion made under section 51, every note, endorsement, amendment, or rectification made under section 52, and every correction made under section 53 shall be made, without the erasure of any of the particulars of the original entry, in the language in which that entry was made; and the amendments and other alterations made under the said sections shall bear as near thereto as possible the signature of the officers making those amendments or alterations.

57. (1) The third copy issued under section 11 A or a certified copy of, or a certified extract from, a registration entry obtained under section 56 shall be received as prima facie evidence of the birth, death or still-birth to which that copy or extract relates if that entry purports to have been made in accordance with the provisions of this Act, and that copy or the extract purports to have been made under the hand of the Registrar-General, or an Assistant Registrar-General, or the appropriate District Registrar, or the appropriate Additional District Registrar, or under the hand of the appropriate registrar.

Third copy, certified copy or extract to be prima facie evidence. [§ 3, Law 41 of 1975.]

Power of court to question the correctness of a registration or entry.

55. The provisions of sections 27, 27A, 28, 51 and 52 for perfecting registration entries shall not be construed as precluding any person from questioning, in any proceedings in any court (not being proceedings taken under this Act), the correctness of any registration or entry although such person may not have observed properly those provisions.

(2) A certified copy or a certified extract of a registration entry issued under the appropriate section of any past enactment shall be received as prima facie evidence of the birth, death or still-birth to which that copy or extract relates if that entry purports to have been made in accordance with the provisions of such enactment and that copy or extract purports to have been made under the hand of the Registrar-General, an Assistant Registrar-General, the appropriate District Registrar, or the appropriate Additional District Registrar, or under the hand of the appropriate registrar.

Issue of certified copies, &c.

56. (1) Any person shall be entitled on making a written application to the appropriate District Registrar or to the appropriate Additional District Registrar or to the appropriate registrar, and under such conditions and on payment of such fees as may be prescribed, to refer to any book or document in the possession of such District Registrar, Additional District Registrar or registrar, and kept under this Act or under any past enactment, and to demand a certified copy of, or a certified extract from, any entry in such book or document. The Registrar-General, or an Assistant Registrar-General may, on payment of such fees as may be prescribed, issue a certified copy of or a certified extract from, any registration entry.

58. (1) All notices, declarations, certificates, requisitions, returns, and other documents required or authorized by or under this Act to be delivered, sent, or given to the Registrar-General, or District Registrar, or registrar, or medical officer of health, or by a medical officer of health to a registrar, or by a registrar to an appropriate informant, may be delivered in person or sent by post.

Manner in which documents may be sent &c.

(2) Any document referred to in subsection (1) which is sent by post shall be deemed to be received by the person to whom it is sent on the date on which it would be delivered to that person in the ordinary course of post.

[§ 3, Law 41 of 1975.]

(2) The applicant shall supply in respect of every written application and in respect of every certified copy or certified extract

(3) For the purpose of proving the sending of any document referred to in this section, it shall be sufficient to prove that the letter was prepaid, or, if it be a letter that might according to the rules of the

Department of Posts of Sri Lanka be sent free on State Service, that such letter was franked " On State Service " and that it was properly addressed and put into the post.

stamp or stamps, or shall be paid to the diplomatic, consular or trade representative, if any, before whom a declaration is made.

Books.

59. The Registrar-General and every District Registrar and registrar shall—

- (a) keep, for the purposes of this Act, books of such form and material as may be specified in that behalf by the Minister or as may be prescribed by any rule made under this Act;
- (b) preserve carefully all books and documents kept under this Act or under any past enactment and in their custody; and
- (c) at no time allow such books and documents to remain out of their possession except in obedience to an order of a competent court or except in accordance with the provisions of this Act or rules made thereunder.

(2) When the person who is qualified to make a declaration is in Sri Lanka but unable to appear before the Registrar-General or a District Registrar, the declaration may be made before a Justice of the Peace, a Commissioner for Oaths, or the Judge of a Primary Court on paper bearing a stamp of the proper value.

(3) A declaration made in accordance with the preceding provisions of this section shall be as valid and effectual as if it had been duly made before the Registrar-General or a District Registrar.

62. (1) The Registrar-General or any District Registrar holding an inquiry under this Act may—

- (a) summon any person whom he thinks necessary for the purposes of the inquiry to appear before him;
- (b) examine such person on oath or affirmation; and
- (c) call upon such person to produce any document in his possession which the Registrar-General or the District Registrar, as the case may be, considers material to the inquiry.

Power of Registrar-General and District Registrars to examine witnesses and call for documents.

Registrar to surrender records on ceasing to hold office.

60. (1) A registrar who ceases to hold office shall forthwith deliver all the books, documents, papers and other articles in his possession as registrar, with a list thereof, to the District Registrar within whose district his division is situated.

(2) The District Registrar shall carefully arrange and keep in his office all articles delivered to him by a registrar under subsection (1) except incomplete books which shall be sent by him to the registrar's successor forthwith.

(2) Every person summoned under subsection (1) shall appear before the officer summoning him, and every person called upon to produce a document under that subsection shall produce such document, if the document is in his possession.

(3) Rules may be made under section 69 providing for the payment in such circumstances as may be prescribed of travelling allowances to persons summoned under subsection (1).

Declaration by non-resident persons, &c.

61. (1) Where a person who is qualified to make the declaration under section 13 or section 24 or section 27 or section 27A or section 36 or section 52 is outside Sri Lanka, the declaration may be made before any diplomatic, consular or trade representative of Sri Lanka, or a Justice of the Peace, or a Commissioner for Oaths; and the amount of the stamp duty in respect of such declaration leviable under this Act shall be transmitted to the Registrar-General or appropriate District Registrar, who shall affix to the declaration a stamp or stamps of the proper value and cancel such

63. Notwithstanding anything in section 16 or Section 30 or in the form D or the form I set out in the Schedule, it shall not be necessary for a declaration under either of those sections made by a Government officer attached to a hospital or jail or other public institution to bear a stamp of the value of twenty-five cents or to be attested by two witnesses.

Government officers' declarations under sections 16 and 30.

PART VII

OFFENCES AND PENALTIES

Penalty, in cases of late registrations, for non-observance of provisions of Act, &c.

- 64.** (1) Every person who—
- **(a)* registers or causes to be registered the birth of a child after the expiry of three months from the date of such birth except upon an order made in that behalf under section 24 of this Act by the Registrar-General or the appropriate District Registrar; or
 - **(b)* registers or causes to be registered the death of a person after the expiry of three months from the date of such death except upon an order made in that behalf under section 36 of this Act by the Registrar-General or the appropriate District Registrar; or
 - **(c)* contravenes the provisions of subsection (1) or subsection (2) or subsection (4) or subsection (5) or subsection (6) of section 41, or the provisions of subsection (1) or subsection (3) or subsection (4) of section 43 or the provisions of any rule made or deemed to be made under this Act; or
 - (d)* having custody of a register kept under this Act or under any past enactment, carelessly loses, injures or permits the injury of such register,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees.

(2) Every registrar, police officer, grama seva niladhari or superintendent of an estate, who, in the discharge of his duties under section 41, knowingly causes unnecessary vexation to any person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees.

(3) Every registrar who refuses or without reasonable cause omits to register any birth

or death or still-birth or any particulars relating to such birth, death or still-birth, concerning which information has been given to him by the appropriate informant and which he ought to register, or knowingly disobeys any direction of the law as to the way in which he is to conduct himself, intending or knowing it to be likely to cause injury to any person or to the Government, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees.

65. Every medical practitioner who neglects or refuses to issue a certificate as required by section 31, and every person who neglects or refuses to deliver the certificate given to him under that section to the registrar as provided therein, shall be guilty of an offence and shall be liable to a fine not exceeding one hundred rupees.

Penalty for failure to issue certificate under section 31, &c.

***66.** Every person who, contrary to the provisions of section 42, removes or causes to be removed for burial, cremation or other disposal a corpse, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three hundred rupees, or to imprisonment of either description for a period not exceeding one month.

Penalty for non-compliance with section 42.

67. Every person who—

- (a)* knowingly and wilfully tears, defaces, destroys, or injures any notice, certificate, declaration, book, or document kept under this Act or under any past enactment or any part of such notice, certificate, declaration, book or document, or a certified copy of such notice, certificate, declaration or document, or any part of such certified copy; or
- (b)* knowingly and wilfully inserts any false particular in any register, certificate, declaration, book or document, kept under this Act or under any past enactment, or knowingly and wilfully alters any entry in such register or any such certificate, declaration, book or document; or

Penalty for destruction of documents and for giving false certificates, &c.

* Primary Court has exclusive jurisdiction See Section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

- (c) signs or issues any false certificate relating to a birth, death, or still-birth ; or
- (d) certifies in writing to be a copy or extract of any book or document kept under this Act or any past enactment, knowing such copy or extract to be false in any particular,

- (d) wilfully makes, gives, or uses any false statement or representation as to a child born alive having been still-born, or falsely pretends that any child born alive was still-born; or
- (e) makes any false statement with intent to have it entered in any register of births, deaths, or still-births, or to obtain a certificate under section 41 or section 43,

shall be guilty of an offence- and shall be liable on conviction to rigorous imprisonment for a term not exceeding seven years or to a fine not exceeding five thousand rupees.

shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one hundred rupees, or to simple or rigorous imprisonment for a term not exceeding six months.

Penalty for false statement, &c.

68. (1) Every person who—

- **(a)* refuses or omits to perform any act, or give any information or notice, or make any report required of him under this Act or under any rule made or deemed to be made thereunder; or
- **(b)* wilfully makes any false answer to any question put to him by a registrar, police officer, grama seva niladhari, superintendent of an estate, or a Government officer attached to a hospital or other public institution relating to the particulars required to be registered concerning any birth, death, or still-birth, or wilfully gives to such registrar, police officer, grama seva niladhari, superintendent, or Government officer any false information concerning any birth, death, or still-birth, or as to the cause of any death; or
- (c) wilfully makes any false certificate, declaration, certified copy or certified extract for the purposes of this Act, or forges or falsifies any order made under this Act or any such certificate, declaration, copy or extract, or knowing any such certificate, declaration, copy, extract or order to be false or forged, uses it as true, or gives or sends it as true to any person; or

(2) The failure on the part of any person making or furnishing any declaration, report or other document required by this Act to set out therein particulars as to any matter of which particulars are required to be set out in the form prescribed by this Act for the purpose shall not be an offence if the failure was due solely to the fact that such person did not have knowledge of such matter.

PART VIII

SUPPLEMENTARY PROVISIONS

69. (1) The Minister may make all such rules as may be necessary for carrying out or giving effect to the principles and provisions of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make rules—

- (a) for the guidance, in the exercise of their powers and the discharge of their duties under this Act, of the Registrar-General, District Registrars, registrars, acting and deputy registrars and such other officers and persons as may be appointed for the purposes of the Act;
- (b) for fixing the fees payable for any matter or thing done under, by virtue of, or in pursuance of any of

* Primary Court has exclusive jurisdiction ———See section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

the provisions of this Act and for specifying the persons by whom and to whom such fees shall be payable;

(c) for amending, modifying, rescinding, or replacing any form set out in the Schedule; and

(d) in respect of such matters as may be required by this Act to be prescribed.

(3) No rule made under the preceding provisions of this section shall have effect until that rule has been approved by Parliament, and until the rule has been published in the Gazette.

(4) Every rule approved and published in accordance with the provisions of subsection (3) shall be as valid and effectual as if it were herein enacted.

Interpretation. **70.** In this Act, unless the context otherwise requires—

"appointed date" means the 1st day of August, 1954;

"appropriate District Registrar" or "appropriate Additional District Registrar", in relation to any matter concerning a birth, death, or still-birth mentioned in this Act, means the District Registrar or Additional District Registrar of the district in which such birth, death, or still-birth took place;

"appropriate informant" means the informant required under the provisions of this Act to give the information specified in those provisions;

"appropriate registrar", in relation to any matter concerning a birth, death, or still-birth mentioned in this Act, means the registrar of the division in which such birth, death, or still-birth took place;

"birth" means a product of conception, which, irrespective of the duration of pregnancy, after complete expulsion or extraction from its mother, breathes or shows any

other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;

"district" means administrative district;

"estate" means any land of which ten acres or more are in cultivation and which is situated in a district declared under section 3 of the Medical Wants Ordinance to be an estates medical district, other than any such district or part of such district as may be excluded by the Minister by Order published in the Gazette.

[§ 2, Law 40 of 1975.]

"guardian", in relation to any person, means the lawful guardian of that person appointed by a competent court, or the brother or sister of that person being a major, or a grandparent of that person, or a brother or sister of a parent of that person;

"occupier" includes the keeper, master, matron, superintendent, or other chief residing officer of a public institution, and, where a house is let in separate apartments or lodgings, includes any person residing in such house who is the person under whom such lodgings or separate apartments are immediately held;

"past enactment" means the Births and Deaths Registration Ordinance, 1895, or any other enactment at any time heretofore in force relating to the registration of births, deaths and still-births;

"public institution" includes a prison, lock-up, mental hospital, hospital, certified school, approved school, barracks, and any charitable or other institution which is under the management of a Government officer;

"registered medical practitioner" means a person registered as a medical practitioner under the Medical Ordinance;

[§ 2, and 3,
Law 23 of
1978.]

" Registrar General" includes a Deputy Registrar-General;

" still-birth" means death prior to complete expulsion or extraction from its mother of a product of conception which has had a duration of not less than twenty-eight weeks of gestation, death being indicated by the fact that after such- separation, the foetus

does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles; and

" superintendent of an estate " means the person having the charge and supervision of the labourers and work of an estate.

SCHEDULE

Form A

[Section 10
(1).]

BIRTH REGISTRATION ENTRY

No.:..... Division:..... District:.....

- (1) Date and place of birth':.....
- (2) Name:.....
- (3) Sex:.....
- (4) Father's—
full name:.....;
date of birth:.....;
place of birth;.....;
race:.....'
rank or profession:.....
- (5) Mother's—
full name:.....;
date of birth:.....;
place of birth:.....;
race:.....;
age:.....
- (6) Were parents married ?:.....
- (7) If grandfather bom in Sri Lanka:.....
his full name:.....;
his year of birth :.....;
his place of birth:.....
- (8) If the father was not born in Sri Lanka and if great grandfather bom in Sri Lanka, the great grandfather's³—
full name:.....;
year of birth:-.....;
place of birth :.....
- (9) Informant's full name, residence, and in what capacity he gives information:.....
- (10) Informant's signature:.....-.....
- (11) Date of registration:.....
- (12) Registrar's signature:.....
- (13) Name inserted, or substituted, after registration :
- (14) Name of person on whose information particulars relating^o item 13 were supplied, and in what capacity he gave information:.....
- (15) Date of insertion, or substitution, and District Registrar's, or Registrar-General's signature;.....

¹ Specify all the particulars relating to the dates, including the month, and last portion of the year, in teters, for instance, first day of January, 1947 (forty-seven).

² Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be.

³ In the case of a person born in wedlock, information should be given of the paternal grandfather and great grandfather, and in the case of a person not so born, and not legitimated by the subsequent marriage of the parents, information should be given of the maternal grandfather and great grandfather.

BIRTHS AND DEATHS

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Form B

DEATH REGISTRATION ENTRY

[Section 10
(I).]

No. Division :; District:...

- (1) Date and place of death.....
- (2) Full name:.....
- (3) Sex and race:.....
- (4) Age:.....
- (5) Rank or profession:.....
- Father.....
- (6) Parents' full names ;
Mother:.....
- (7) Cause of death and place of burial or cremation:.....
- (8) Informant's full name, residence, and capacity for giving information:
- (9) Informant's signature:.....
- (10) Date of registration:.....
- (11) Registrar's signature:.....

¹ Specify the age and all the particulars relating to the date, including the month, and last portion of the year, in letters, for instance, First day of January, 1947 (forty-seven).

² Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be.

³ If one of the qualifications of the informant for giving information was his presence at death, specify this fact.

Form C

STILL-BIRTH REGISTRATION ENTRY

[Section 10
(2).]

No.: Division; District:...

- (1) Date and place of occurrence":.....
- (2) Race:.....
- (3) Sex;.....
- (4) Mother's full name and rank or profession;.....
- (5) Mother's age':.....
- (6) Number of months pregnant at time of still-birth :.....
- (7) Father's full name and rank or profession :.....
- (8) Name, description and residence of informant:.....
- (9) If informant related to still-born child, specify nature of relationship;.
- (10) Informant's signature:.....
- (11) Date of information':.....
- (12) Date of registration';.....
- (13) Registrar's signature:.....

¹ Specify the age and all the particulars relating to the date, including the month, and last portion of the year, in letters, for instance, first day of January, 1947 (forty-seven).

² Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be.

[Section 16.]

DECLARATION OF BIRTH

Birth in..... Division,..... District.

- (1) Date and place of birth":.....
 - (2) Name:.....
 - (3) Sex:.....
 - (4) Father's—
 - full name:.....;
 - date of birth:.....;
 - place of birth:.....;
 - race:.....;
 - rank or profession:.....
 - (5) Mother's—
 - full name:.....;
 - date of birth:.....;
 - place of birth:.....;
 - race:.....;
 - residence:.....;
 - age:.....
 - (6) Were parents married? If so, when and where :
 - (7) If grandfather born in Sri Lanka—
 - his full name:.....;
 - his year of birth:.....;
 - his place of birth :.....;
 - (8) If the father was not born in Sri Lanka and if great grandfather born in Sri Lanka, the great grandfather's—
 - full name:.....;
 - year of birth:.....;
 - place of birth:.....
 - (9) Declarant's full name, rank or profession, and residence, and in what capacity he gives information;.....
 - (10) Parents' signatures for purposes of section 21 ;.....
- I do hereby declare the above to be a true and correct statement.
- Witness my hand at..... this..... day of..... 19.....

Signature of declarant:

Subscribed in the presence of-
1st witness:

Full name;..
Residence;..
Signature:..

2nd witness;

Fullname:..
Residence:..
Signature:..

¹ Specify all the particulars relating to the dates, including the month, and last portion of the year, in letters, for instance, first day of January, 1947 (forty-seven).

² Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be.

³ In the case of a person born in wedlock, information should be given of the paternal grandfather and great grandfather, and in the case of a person not so born, and not legitimated by the subsequent marriage of the parents, information should be given of the maternal grandfather and great grandfather.

N.B.—If the name of the child is not specified in this form, the declarant is bound within forty-two days to make an application under section 27 for the insertion of the name of the child.

FormE

REPORT OF BIRTH ON AN ESTATE

[Section 20.]

(To be transmitted to nearest medical officer or apothecary within forty-eight hours of the receipt of information of the birth.)

No.:.....

Birth on the..... Estate, in the Medical District of.....

(1) Date and place of birth':.....

(2) Name:.....

(3) Sex:.....

(4) Father's—

full name:.....;

date of birth:.....;

place of birth:.....;

race²;.....;

rank or profession:.....

(5) Mother's—

full name:.....;

date of birth:.....;

place of birth:.....;

race²;.....;

age:..-.....

(6) Were parents married?.....

(7) If grandfather born in Sri Lanka³.....

his full name:.....;

his year of birth :.....;

his place of birth:.....

(8) If the father was not born in Sri Lanka and if great grandfather born in Sri Lanka, the great grandfather's³—

full name:.....;

year of birth:.....;

place of birth:.....;

(9) Name in full of the *kmgany* or *kanganies* under whom the father and mother work⁴.....

(10) Place where and time when the birth was reported to the superintendent by the *kangany*:.....

(11) Parents' signatures for purposes of section 21:.....

I do hereby declare the above to be a true and correct statement.

Witness my hand at..... this..... day of..... 19.....

Superintendent of..... Estate.

Received on the..... day of..... 19.....

Medical Officer or Apothecary.

¹ Specify all the particulars relating to the dates, including the month, and last portion of the year, in letters, for instance, first day of January, 1947 (forty-seven).

² Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be.

³ In the case of a person born in wedlock, information should be given of the paternal grandfather and great grandfather, and in the case of a person not so born, and not legitimated by the subsequent marriage of the parents, information should be given of the maternal grandfather and great grandfather.

⁴ To be filled only in case of labourers.

N.B. -If the name of the child is not specified in this form, the parent or guardian of the child is "bound within forty-two days to make an application under section 27 for the insertion of the name of the child.

[Section 24.]

DECLARATION OF BIRTH AFTER THREE MONTHS

Whereas the birth of the child herein named has not been registered within three months and it is now necessary to register the same, I,..... of..... hereby declare that the following particulars to be registered concerning its birth and name are true and correct to the best of my knowledge and belief:

(1) Date and place of birth':.....

(2) Name:.....

(3) Sex:.....

(4) Father's—

full name : ;
 date of birth : ;
 place of birth:..... ;
 race:..... ;
 rank or profession:.....

(5) Mother's—

full name:..... ;
 date of birth : ;
 place of birth:..... ;
 race:..... ;
 residence:..... ;
 age:.....

(6) Were parents married ?.....

(7) If grandfather born in Sri Lanka—

his full name ; ;
 his year of birth : ;
 his place of birth:.....

(8) If the father was not born in Sri Lanka and if great grandfather born in Sri Lanka, the great grandfather's¹—

full name : ;
 year of birth:..... ;
 place of birth:.....

(9) Declarant's full name, and residence, and in what capacity he gives information:

(10) Parents' signatures for purposes of section 21:.....

Informant.

Declared before me at..... this..... day of..... 19....

Registrar-General or District Registrar.

No. and date of the registration : (to be filled in by the registrar).

¹ Specify all the particulars relating to the dates, including the m[#]nth, and last portion of the year, in letters, for instance, first day of January, 1947 (forty-seven).

² Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be.

³ In the case of a person born in wedlock, information should be given of the paternal grandfather and great grandfather, and in the case of a person not so born, and not legitimated by the subsequent marriage of the parents, information should be given of the maternal grandfather and great grandfather.

⁴ If declaration is made within twelve months of birth the stamp shall be of the value of one rupee and if it is made thereafter the stamp shall be of the value of five rupees.

BIRTHS AND DEATHS

[Cap. 129

Form G

DECLARATION OF NAME

[Section 27.]

I, do hereby declare that the male (or female) child born on the....., at..... in..... to..... and....., his wife, and whose birth was registered in the division of..... on the....., day of..... 19....., has received the name of.....

Witness my hand this..... day of..... 19.....

.....
Signature. Appropriate Stamp,*

Declare before me at..... this..... day of..... 19.....

Justice of the Peace or District Registrar.

* One-rupee stamp if not more than two years have elapsed since the registration of birth and five-rupee stamp if more than two years have so elapsed.

Form GG

DECLARATION OF NAME BY THE PERSON HIMSELF

[§ 3, Law 41 of 1975.]
[Section 27.]

I,, do hereby declare that I am the male (female) child born on the..... at..... in..... to..... and..... his wife, and whose birth was registered in the division of..... on the..... day of..... 19..... and that I have received the name of.....

Witness my hand this..... day of..... 19,

Signature.

Declared before me at..... this..... day of..... 19.....

Justice of the Peace or District Registrar.

BIRTHS AND DEATHS

Form H

[Section 27.]

DECLARATION OF ALTERATION OF NAME

I,.....do hereby declare that the male (or female) child born on the....., day of.....,19..... at..... in.....to. and....., his wife, and whose birth was registered in the division of..... on the.....day of..... 19..... has since had his (or her) name.....altered to..

Witness my hand this.....day of.....19.....

Signature.....

Declared before me on this..... day of..... 19.....

Appropriate Stamp.*

Justice of the Peace or District Registrar.

* One-rupee stamp if not more than two years have elapsed since the registration of birth and five-rupee stamp if more than two years have so elapsed.

Form HH

[§ 3 Law41 of 1975.] [Section 27.]

DECLARATION OF ALTERATION OF NAME BY THE PERSON HIMSELF

I,....., do hereby declare that I am the male (female) child born on the.....at..... in..... to.....and..... his wife, and whose birth was registered in the division of..... on the..... day of..... 19..... and that my original name..... has been altered to.....

Witness my hand this..... day of..... 19.....

Signature.

Declared before me at..... this..... day of..... 19.....

Justice of the Peace or District Registrar.

Form J

[Section 31.]

CERTIFICATE OF CAUSE-OF DEATH

To the Registrar of.....

I, State here the medical qualifications, I,..... certify that I attended on..... of..... who was apparently aged (or stated to be aged) from the day of..... (month) to the..... day of..... (month) and that his (or her) death was probably caused by

I Disease or condition directly leading to death. (This does not mean the mode of dying. e.g., heart failure, asthenia. Sn: It means the disease, injury or rumplication which caused death).

(a)..... due to (or as a consequence of)

Antecedent causes Morbid conditions, if any aiding rise Id she above cause, stating the underlying condition last.

(b).....due to (or as a consequence of)

II Other significant conditions contributing to the death, but not related to the disease or condition causing it.

Medical Practitioner.

Date:.....

* The disease may be referred to, in the case of a disease specified by the Registrar-General, by reference to its number in the International List of the Cause of Death.

Form K

[Section 32.]

REQUISITION FOR INFORMATION CONCERNING DEATH

The death of..... of..... which took place at.....; on the..... not having been reported to me within fourteen days of its occurrence, you (name of the person), being legally bound to furnish information concerning such death, are hereby required to appear before me at my office at..... on the..... and to give the said information to the best of your knowledge and belief.

Dated at-..... this..... day of..... 19.

Registrar,

To (name and residence of the person).

- 2. Full Name:.....
- 3. Sex and Race:1.....
- 4. Age:.....
- 5. Rank or Profession :.....
- 6. Parents' full names:
 - Father:.....
 - Mother:.....
- 7. Cause of death and place of burial or cremation:.....
- 8. Declarant's full name, residence and capacity for giving information:.....

Stamp.*

Declarant.

Declared before me at..... this..... day of..... 19.....

District Registrar.

* Re. 1 if made within 12 months of death; Rs. 5 if made thereafter.

¹ Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be.

² In the case of an illegitimate child the name of the father should not be entered except with the joint consent of both parents, which should be signified by their signing this declaration. In the absence of such joint consent the name of the father should be omitted and the words " parents not married " entered after the name of mother.

Form N

CERTIFICATE OF NOTICE OF DEATH

[Section 41 (1) (a).]

No. :..... Division :..... District.....

I certify that I have this day received from..... of.....notice of death of.....

- (1) Date and place of death:.....
- (2) Full name:.....
- (3) Sex and race*:.....
- (4) Age:.....
- (5) Cause of death:.....

..... 19.....

Registrar.

* Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be.

BIRTHS AND DEATHS

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Form O

CERTIFICATE OF DEATH BY POLICE OFFICER OR GRAMA SEVA NILADHARI

[Section 41 (1)
(C).]

I certify that information of the death, of which particulars are given below, was furnished to the registrar of..... (or to me, the registrar of the division being absent), not less than three hours previously to the granting of this certificate :—

- (1) Date and place of death:.....
 - (2) Full name:.....
 - (3) Sex and race*
 - (4) Age.....
 - (5) Rank or profession;.....
 - (6) Cause of death:.....
 - (7) Name of last medical attendant:.....
 - (8) Informant's full name and residence :
- Dated at..... this..... day of..... 19.....

Police Officer *or* Grama Seva Niladhari.

* Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be.

Form P

INQUIRER'S CERTIFICATE

[Section 41 (1)
(e).]

I,..... Inquirer into Deaths, of..... certify that I have this day held an inquiry under the provisions of the Code of Criminal Procedure Act on the dead body of..... of..... and that the particulars stated in the Schedule hereto are true and correct, and I hereby authorize the burial or cremation of the said body.

Dated at..... this..... day of..... 19.....

Inquirer into Deaths.

Schedule

- (1) Date and place of death :.....
- (2) Full name and residence:.....
- (3) Sex and race*:
- (4) Age:.....
- (5) Rank or profession :
- (6) Parents' full names :
Father:.....
Mother:.....
- (7) Cause of death:.....

* Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the c., may be.

BIRTHS AND DEATHS

FonnQ

[Section 41 (1) (f).]

CERTIFICATE OF SUPERINTENPENT OF ESTATE

I, Superintendent of the..... Estate, in..... hereby authorize the burial, cremation or.....* of the body of..... (name), whose death took place on the above estate on the..... day of..... 19.....

Dated at..... this..... day of..... 19.....

Superintendent.

* If the body is to be disposed of in some other manner, specify such manner in the blank space.

FormR

[Section 42 (I)

CERTIFICATE OF REGISTRATION OF DEATH

No:..... Division:..... District:..

I have this day received from of..... notice of, and registered, the following death:—

- (1) Date and place of death:..
- (2) Full name:.....
- (3) Sex and race*.....
- (4) Age:.....
- (5) Cause of death :.....

Registrar.

.....,19.....

* Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be.

Form S

[Section 43 (1) (a).]

CERTIFICATE OF NOTICE OF STILL-BIRTH

No:.....

I have this day received from..... of..... notice of the following still-birth:—

- (1) Date and place of occurrence :.....
- (2) Race*.....
- (3) Sex:.....
- (4) Mother's full name and rank or profession :.....

..... 19.....

Registrar,
Police Officer or Grama Seva Nitadhari.

* Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be.

BIRTHS AND DEATHS

[Cap. 129

FonnT

CERTIFICATE OF STILL-BIRTH

[Section 43 (1)
(c).]

I certify that the child whose particulars are given below was not born alive :

- (1) Date and place of occurrence:.....
- (2) Race*:.....
- (3) Sex:.....
- (4) Mother's full name and rank or profession :
- (5) Mother's age :
- (6) Number of months pregnant at time of still-birth:.....
- (7) Father's full name and rank or profession ;
- (8) Informant's full name, residence, and description;.....
- (9) Informant's signature;.....
- (10) Date of information:.....

Medical Practitioner.

..... 19.....

* Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be.

Form U

REPORT OF BIRTH BY GRAMA SEVA NILADHARI

[Section 46
(1).]

No.:..... Grama Seva Niladhari's Division:..... Registration
Division:.....

- (1) Date and place of birth :,
- (2) Name:.....
- (3) Sex:.....
- (4) Father's—
full name :
- date of birth:.....
- place of birth :
- race*:.....
- rank or profession:.
- (5) Mother's—
full name :
- date of birth :
- place of birth :
- race*:.....

(6) Were parents married ?.....

(7) If grandfather born in Sri Lanka+—

his full name:.

his. year of birth:.....

his place of birth:.....

(8) If the father was not born in Sri Lanka and if great grandfather born in Sri Lanka the great grandfather's+

full name:.....;

year of birth:.....;

place of birth:.....

I certify that the above statement contains true particulars of a birth which occurred in my division.

Signed at..... this..... day of..... 19.....

Signature of Grama Seva Niladhari.

* Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be.

f In the case of a person born in wedlock, information should be given of the paternal grandfather and great grandfather, and in the case of a person not so born, and not legitimated by the subsequent marriage of the parents, information should be given of the maternal grandfather and great grandfather.

Form V

REPORT OF DEATH BY GRAMA SEVA NILADHARI

[Section 46 (1.)]

No.:..... Grama Seva Niladhari's Division:..... Registrar's Division:.....

(1) Date and place of death:.....

(2) Full name :.....

(3) Sex and race* :.....

(4) Age:.....

(5) Rank or profession:.....,

(6) Cause of death:.....

(7) Name and address of person bound to give information :.....

I certify that the above statement contains the true particulars of a death which occurred in my division and I report the same to the registrar of.....

Signed at..... this,..... day of..... 19.....

Signature of Grama Seva Niladhari.

* Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be.

BIRTHS AND DEATHS

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FormW

REPORT OF BIRTH OR STILL-BIRTH BY THE FATHER OR ANY
PERSON IN ATTENDANCE UPON THE MOTHER

[Section 47
(2).]

- (1) Whether birth or still-birth:.
- (2) Date of occurrence:.....
- (3) Place of occurrence:..... House No.:..... Street:..... Town
or Village:.....
- (4) Sex and race*:.....
- (5) Father's full name and occupation:.....
- (6) Mother's full name:.....-
- (7) Names of other adult inmates :

I,..... of..... being the father /+ the person in attendance upon the mother at
the time of /+ within six hours after /+ the birth, /+ still-birth, certify that the above statement of particulars is to
the best of my knowledge and belief true.

Signed at..... this..... day of.....19.....

Signature.

* Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the
case may be.

+ Omit inapplicable words.

FormX

[Section 48.]

Return of births during the week ending..... 19..... taking place at.....

Date of birth	Sex	Father's full name and address	Mother's full name and address
---------------	-----	-----------------------------------	-----------------------------------

Signature of Manager or Officer in charge.

Dale:.....19.

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BIRTHS AND DEATHS

[Section 48.]

Form Y

Return of deaths during the week ending....., 19....., taking place at.....

Date of Death	Full Name	Sex	Age	Cause of death	Full name and address of person who admitted patient for treatment and his relationship to deceased	Full name and address of person removing dead body for burial or cremation and his relationship to deceased

Signature of Manager or Officer in charge.

Date:.....,19.....

[Section 48.]

Form Z

Return of still-births during the week ending....., 19....., taking place at.

Date of occurrence	Sex	Mother's full name and address	Father's full name and address

Signature of Manager or Officer in charge.

Date:.....,19.....

BIRTHS AND DEATHS

[Cap. 129

Form AA

CERTIFICATE OF MAGISTRATE OR JUDGE OF PRIMARY COURT RELATING TO A BIRTH

[Section 49
(1).]

To the District Registrar,.....

I, Magistrate of..... or Judge of the Primary Court for....., do hereby certify that of..... was this day tried by me and convicted (or acquitted) on the charge of giving false information, or of not giving due information (*ai, she case may be*) to the registrar touching the birth of a child, and that the following particulars touching that child appeared in evidence during the trial:—

- (1) (a) Date of birth : 2.....
(b) Place of birth:.....
(c) Registration division :

(2) Name :

(3) Sex;.....

(4) Father's—

full name :.....
date of birth :

place of birth :

race : 3.....;

rank or profession :

(5) Mother's—

full name :.....;
date of birth :

place of birth :

race: 1.....;

residence:.....;

age:.....

(6) Were parents married ?

(7) If grandfather born in Sri Lanka⁴—

his full name:.....;

his year of birth :

his place of birth :

(8) if the father was not born in Sri Lanka and if great grandfather born in Sri Lanka, the great grandfather's⁴—

full name :

year of birth:.....;

place of birth :

(9) Parents' signatures for purposes of section 21 ;

Witness my hand at..... this..... day of..... 19.....

Magistrate of.....

or

Judge of Primary Court for.....

¹ Strike out if inapplicable.

² Specify all the particulars relating to the dates, including the month and last portion of the year, in letters, for instance, first day of January, 1947 (forty-seven).

³ Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be-

⁴ In the case of a person born in wedlock, information should be given of the paternal grandfather and great grandf.ithci, and in the case of a person not so born, and not legitimated by the subsequent marriage of the parents, information should be given of the maternal grandfather and great grandfather.

Form AB

[Section 49 (I.)]

CERTIFICATE OF MAGISTRATE OR JUDGE OF PRIMARY COURT RELATING TO A STILL-BIRTH

To the District Registrar,-.....

I, Magistrate of..... or Judge of the Primary Court for.....I, do hereby certify that..... of..... was this day tried by me and convicted (or acquitted) on a charge of giving false information, or of not giving due information, (as the case may be) to the registrar touching a certain still-birth, and that the following particulars touching such still-birth appeared in evidence during the trial:—

- (1) (a) Date of occurrence of still-birth :2.....
(b) Place of occurrence ;.....
(c) Registration division:.....
(2) Race :-1.....
(3) Sex :.....
(4) Mother's full name and rank or profession :.....
(5) Mother's age :.....
(6) Number of months pregnant at time of still-birth;.....
(7) Father's full name and rank or profession :.....

Witness my hand at.....this.....day of....., 19.

Magistrate of.....

Judge of Primary Court for.....

- 1 Strike out if inapplicable.
2 Specify all the particulars relating to the dates, including the month and last portion of the year, in letters, for instance, first day of January, 1947 (forty-seven).
3 Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors as the case may be.

Form AC

[Section 49 (I.)]

CERTIFICATE OF MAGISTRATE OR JUDGE OF PRIMARY COURT RELATING TO A DEATH

To the District Registrar,.....

I, Magistrate of..... or Judge of the Primary Court for....., do hereby certify that of..... was this day tried by me and convicted (or acquitted) on the charge of giving false information or of not giving due information (as the case may be) to the registrar touching the death of a certain person (or the finding of a certain dead body (as the case may be), and that the following particulars touching such deceased person appeared in the evidence during the trial :—

- (1) (a) Date of death :2.....
(b) Place of death :.....
(c) Registration division :.....
(2) Full name and residence :.....
(3) Sex and race:3.....
(4) Age:2.....
(5) Rank or profession :.....
Father :.....
(6) Parents' full names :
Mother:.....
(7) Cause of death and place of burial or cremation ;.....

Witness my hand at..... this..... day of..... 19.....

.....
Magistrate of.....

or

Judge of Primary Court for.....

- 1 Strike out if inapplicable.
2 Specify all the particulars relating to the dates, including the month, and last portion of the year, in letters, for instance, first day of January. 1947 (forty-seven).
3 Tamils or Moors must be described as " Sri Lanka " Tamils or Moors, or " Indian " Tamils or Moors, as the case may be-

CHAPTER 463

BAADHI BEEYA ASSOCIATION

Ordinance AN ORDINANCE TO INCORPORATE THE GENERAL COMMITTEE OF THE BAADHI BEEYA
 No. 15 of 1947. ASSOCIATION, KAHATAOWITA.

[13th March. 1947.]

Short title. **1.** This Ordinance may be cited as the General Committee of the Baadhi Beeya Association, Kahataowita, Ordinance.

Incorporation. **2.** From and after the passing of this Ordinance the persons whose names appear in the First Schedule* hereto and their successors elected in the manner provided in the rules set out in the Second Schedule* hereto, or such other rules as may be in force at the date of their appointment shall be and become a corporation with perpetual succession under the name and style of "The General Committee of the Baadhi Beeya Thakkiya " (hereinafter referred to as the " corporation ") and by that name shall sue and be sued with full power and authority to have and use a common seal and to change the same at pleasure.

Objects of the corporation, **3.** The general objects for which the corporation is constituted are hereby declared to be—

- (a) the promotion of the study of the Islamic faith and the teaching of its principles and practices, and in particular the teaching of those principles and practices as expounded and preached by His Holiness Shaik Abdulla Bin Omar Baadhib Mowlana (hereinafter referred to as the " Mowlana ");
- (b) the maintenance and development of the *thakkiya* established by him and the preservation of all property both movable and immovable belonging to the said *thakkiya*;
- (c) the regular conduct of the following religious ceremonies, that is to say,

the Mowlood, Rathib, Manaqib, Nazar-Kanduri, Hisbu and Fithara, in the manner and form laid down by the said Mowlana or as may be prescribed and ordered from time to time by the executive committee;

- (d) the establishment and the maintenance, in the village of Kahataowita, of religious and educational institutions for the instruction of Muslim children in general, and Muslim children resident in the said village in particular; and
- (e) generally the carrying on of all such work as may be necessary to attain the aforesaid objects.

4. The rules set out in the Second Schedule* shall, for all purposes, be the Rules. rules of the Baadhi Beeya Association (hereinafter referred to as the " association "):

Provided, however, that nothing herein contained shall be held or construed to prevent the association at a general meeting and by a majority which is not less than two-thirds of the number of members present and voting at such meeting from making fresh rules or from altering, amending, adding to or cancelling any of the rules set out in the Second Schedule* or any rule that may hereafter be made under this Ordinance.

5. Subject to and without prejudice to any special rule that may be made in that behalf the corporation shall have full power to acquire, purchase, take, hold and enjoy movable and immovable property of Power to hold and dispose of property.

* Schedules omitted.—Private enactment.

BAADHI BEEYA ASSOCIATION

[Cap. 463

every description and to sell or exchange or to mortgage, let, lease or otherwise dispose of the property belonging to the corporation and to invest the proceeds in other property and to utilize its property for the objects specified in section 3 :

portion of the funds, income or revenue of the said *thakkiya*.

7. The seal of the corporation shall not be affixed to any instrument whatever except in the presence of the secretary and managing trustee and two other members who shall sign their names to the instrument in token of their presence and such signing shall be independent of the signing of any persons as witnesses.

Seal of the corporation.

Provided that every disposition of property shall have the consent of at least two-thirds of the members of the general committee present at a duly convened meeting for that purpose.

8. Nothing in this Ordinance contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or any other person, except such as are mentioned in this Ordinance and those claiming by, from, or under them.

Saving as to the rights of the Republic and others.

Expenses on educational and religious institutions.

6. It shall be lawful for the corporation after defraying all the expenses of the *thakkiya* to spend for the establishment and maintenance of religious and educational institutions referred to in section 3 {d), any

CHAPTER 275

BOTANIC GARDENS

Ordinance
No. 31 of 1928,
Law
No. 32 of 1973.

AN ORDINANCE TO PROVIDE FOR THE MANAGEMENT, ADMINISTRATION AND CONTROL OF BOTANIC GARDENS.

[16 th November, 1928.]

Short title.

1. This Ordinance may be cited as the Botanic Gardens Ordinance.

3. (1) It shall be lawful for the Minister by notification in the Gazette to make regulations for any or all of the following purposes:—

Regulations.

Interpretation.

2. (1) In this Ordinance, unless the context otherwise requires—

" botanic garden " includes the Royal Botanic Gardens at Peradeniya, the Botanic Gardens at Hakgala, and the Botanic Gardens at Heneratgoda (Gampaha), the boundaries of which are set out in the First Schedule, and any additions which may from time to time be made to any such gardens, and notified in the Gazette;

" curator " means the officer for the time being in charge of any botanic garden and includes an assistant curator;

" Director of Agriculture " means the officer for the time being in charge of the Department of Agriculture created by the Department of Agriculture Ordinance;

" watcher " means any uniformed person appointed to guard and watch over any botanic garden.

(2) The Minister may also by notification in the Gazette declare any area or garden other than the gardens mentioned in subsection (1) which has been, or shall at any time hereafter be, acquired or appropriated by the Government for any experimental cultivation or for the cultivation of any vegetable product under the direction of the Director of Agriculture, to be a botanic garden for the purpose of this Ordinance, and may specify the boundaries thereof.

(a) for the management, administration, and control of any botanic garden;

(b) for fixing the hours of opening and closing any botanic garden and the hours at or during which the public shall be prohibited access thereto;

(bb) for the levying of a fee or charge, subject to such limitations and exemptions as may be made, for admission to any botanic garden; [§ 2, Law 32 of 1973.]

(c) for regulating the conduct of persons employed in any botanic garden or resorting thereto;

(d) for prohibiting, restricting, and regulating the use of any botanic garden by animals, motorcars, carts, carriages, jinrickshas, and bicycles;

(e) for declaring what portion or portions of any botanic garden shall be deemed to be a private ground attached to residences therein or required for nurseries or other administrative purposes and not accessible to the public except by the special permission of the curator duly authorized by the Director of Agriculture in that behalf; and

(f) for prohibiting and preventing interference with, or damage to, or destruction of, trees, plants, shrubs, fruits, gates, fences, or other things within or about any botanic garden.

(2) The regulations in the Second Schedule shall be deemed to have been made under this Ordinance, and may be amended, altered, or rescinded by regulations made under this Ordinance.

(3) All regulations made under this Ordinance shall be laid, as soon as conveniently may be, on the table of Parliament at two successive meetings of Parliament, and shall be brought before Parliament at the next subsequent meeting held thereafter by a motion that the said regulations shall not be disapproved, and if upon the introduction of any such motion, or upon any adjournment thereof, the said regulations are disapproved by Parliament, such regulations shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything already done thereunder; and such regulations, if not so disapproved, shall continue to be of full force and effect. Every such disapproval shall be published in the Gazette.

(4) Copies of all regulations made or deemed to be made under this Ordinance, printed in Sinhala, Tamil and English, shall be kept posted at the main entrance of the botanic garden to which they apply, and in such other places in the garden as may be deemed necessary by the Director of Agriculture.

4. (1) Every person who contravenes any of the provisions of this Ordinance or of the regulations made or deemed to be made thereunder shall be guilty of an offence and shall upon summary conviction by a

Penalty and powers of arrest.

Magistrate be liable to a fine not exceeding fifty rupees.

(2) Every person who is accused, in the presence of a curator or watcher, *oi* committing a breach of any of the regulations made or deemed to be made under this Ordinance shall on demand give his name and address to such curator or watcher.

(3) Every such person who refuses so to give his name and address, may be arrested by such curator or watcher in order that his name and address may be ascertained, and shall within twenty-four hours of his arrest, exclusive of the time necessary for the journey, be taken before the nearest Magistrate, unless in the meantime his name and address have been given by him, in which case such person shall be forthwith released on his executing a bond for his appearance before a Magistrate if so required.

5. Every curator or watcher shall, while performing any duty or exercising any power under this Ordinance or any regulation made or deemed to be made thereunder, be deemed to be a public servant within the meaning of the Penal Code.

Curators and watchers.

6. Any information or complaint charging an offence under this Ordinance may be given or made by a curator or by any other person generally or specially authorized thereto by the Director of Agriculture.

Procedure.

[Section 2 (1).]

FIRST SCHEDULE

I.—ROYAL BOTANIC GARDENS, PERADENIYA

(a) Boundaries of lots 1 to 6 and 8 in preliminary plan No. 7,604.

North by Medegehena claimed by L. Naidu, Gavaramadittahena claimed by D. Setuwa, Gallanakandahena claimed by G. P. Dingiri, Gallanakandahena claimed by I. Bodiya, Gallanakandahena claimed by W. Menika, Medagoda-arama claimed by I. Menika, Yamankamawatta claimed by A. Setuwa, Yamanahena claimed by Y. G. Pussemba, and Gallanakandahena claimed by P. D. Naina ;

East by Gallanakandahena claimed by P. D. Hawadia, Gallanakandahena claimed by Pallegama temple, Gallanakandahena claimed by H. G. Ukkuwa, Gallanakandahena claimed by P. M. Ukkuwa, Tittapathgeliawatta claimed by W. Bodiya and others, Tittapathgeliawatta claimed by W. Dingiriya, Kapuhena claimed by P. M. Horathala, Kapuhena claimed by P. M. Puncha, Kapuhena claimed by A. Puncha, Kapuhena claimed by K. Dingiriya, a masonry well and the Mahaweli-ganga;

South by the Mahaweli-ganga, a stream, and the road from Colombo to Kandy ; and

West by the Mahaweli-ganga, title plan No. 90,751, the road from Colombo to Gampola, Naradeniyewatta claimed by F. Appuhami, Kotikahambeheha claimed by the Honourable Mr. Abdul Rahim, Gurudiahettahena *alias* Kenghindawatta claimed by V. M. David, Gurudiahettahena claimed by P. Hawadia and Hendrick Appu Bass, Gurudiahettakumbura claimed by D. J. Appuhamy, Nawakrewe estate claimed by D. J. Appuhamy, Gorakadeniyawattehena claimed by P. Philip, Gorakadeniyawatta claimed by Kalaheinia, lots 1 and 2 in preliminary plan No. 6,966, Rotupehilla-ela, a footpath, a Gansabhawa road, Gama-ela, Gangabaddakumbura claimed by T. Appuhami, Gangabaddakumbura claimed by Gannoruwa temple, Paraliyaddekumbura claimed by P. Pinhami, Paraliyaddakumbura claimed by A. M. Appuhami, Hirithalagollakumbura claimed by G. W. Banda, title plan No. 63,693, Hirithalogollawatta claimed by A. Ranmenika, Hirithalgolla claimed by A. Bandara Menika and others, Upasakagederawatta *alias* Deniyawatta claimed by R. M. Mudalihami, Gallanahena *alias* Kandewatta claimed by A. Mudiyanse and others, title plans Nos. 89,267 and 89,270, Mansamadehena claimed by V. A. Amolis and others, and Mudunehena claimed by M. Naidu and others.

(b) Boundaries of lot 7 in preliminary plan No. 7,604.

North by a Gansabhawa path;

East by lots 4 and 2 in preliminary plan No. 6,966;

South by lots 2 and 1 in preliminary plan No. 6,966; and

West by Gorakadeniyawatta claimed by Kaluheinia, Udugammahawatta claimed by W. S. Pussemba and others, Udugammahawatta claimed by W. S. Dingiri and Udugammahawatta claimed by W. S. Dingiri on title plan No. 59,775.

II.—BOTANIC GARDENS, HAKGALA

Boundaries

North by reservation along the road from Nuwara-Eliya to Badulla;

East by reservation along the road from Nuwara-Eliya to Badulla, title plans Nos. 57,823 and 62,276, Bambaragahabokkandura, Crown land, reservations along Alakolagalakandura, Alakolagalakandura and title plans Nos. 142,796 and 76,118;

South by Crown land ; and

West by Crown land and title plan No. 110,456, containing in extent 558 acres and 17 perches, called Hakgala Gardens and Hakgala patana, situated in Radakanduruwela village in Udapalata korale of Udukinda division in the District of Badulla, Province of Uva; and Endiribedda, Gorandihela, and Sita Eliya villages in Udapane korale of Kotmale division in the District of Nuwara Eliya, Central Province, and more particularly described as lots 7,460 to 7,465 and 7,467 to 7,492 in preliminary plan No. 2,312 and lots 14,764 and 14,765 in preliminary plan No. 5,586.

III.—BOTANIC GARDENS, HENERATGODA (GAMPAHA)

Boundaries

North by Madita-ela;

East by Tittawelmadittepillewa claimed by H. Peter Appu and others, Tittawelmadittepillewa claimed by H. J. Perera, Delgahawatta claimed by H. John Singho (title plan No. 60,518) and title plans Nos. 118,340, 118,341, and 118,342, and Delgahawatta claimed by H. Dickman;

South by Malwatte-oya; and

West by a village path, Munamalgahawatta claimed by K. G. Fernando, Munamalgahawatta claimed by R. Abaran Appu, Hicgahawatta claimed by A. D. Moisa, Hicgahawatta claimed by V. Sarochchia, Hicgahawatta claimed by Rampatidevage Avanis, and Elabodalanda claimed by G. S. Femando and others.

1. In these regulations—
" Director " means the Director of Agriculture; and
" Gardens " means the Royal Botanic Gardens, Peradeniya.
2. (1) Subject to the provisions of paragraphs (2) and (3) of this regulation, the Gardens shall be open to the public daily from 7 a.m. to 6 p.m.

(2) The orchid house in the Gardens shall be open to the public daily from 9 a.m. to 5.30 p.m.

(3) The economic museum in the Gardens shall be open to the public daily from 9 a.m. to 12 noon and from 1 p.m. to 5.30 p.m., except on Saturdays and public holidays. On Saturdays and public holidays the museum shall be open from 9 a.m. to 1 p.m.
3. The Director may, if he is satisfied that there are exceptional circumstances rendering the closure of the Gardens necessary, close the Gardens for a period not exceeding three days, after giving at least seven days' notice of the closure in the Gazette.
4. When the Gardens are closed to the public, the curator shall cause notices to that effect in Sinhala, Tamil and English to be displayed at the entrance to the Gardens.
5. (1) Whenever any work of construction, reorganization or repair is commenced in any part of the Gardens, the Director, or the curator shall have the power to prohibit the use of such part by the public for such time as may be necessary.

(2) Where the use of any part of the Gardens is prohibited, the curator shall cause notices to that effect in Sinhala, Tamil and English to be displayed conspicuously in such part.

(3) No person shall fail to comply with a notice displayed under paragraph (2) of this regulation.
6. No person other than the Director, the curator or a guide authorized by the Director or the curator, shall conduct visitors round the Gardens.
7. No person shall enter or remain in the Gardens when he is under the influence of alcohol.
8. Within the Gardens, no person shall—
 - (1) behave in an indecent or disorderly manner or commit any nuisance therein;
 - (2) carry or use firearms or catapults of any description;
 - (3) molest or harass any other person;
 - (4) catch or feed fish in any pond or throw any matter into such pond ;
 - (5) climb any tree or walk on any flower-bed or border;
 - (6) throw stones or sticks at any tree;
 - (7) damage or in any way injure any plant, tree or shrub;
 - (8) damage or in any way deface the seats, labels, buildings or any other property of the Government;
 - (9) catch or kill any bird or destroy any bird's nest;
 - (10) play football, ruggar, hockey, cricket, volley ball or any other game prohibited by the curator; or
 - (11) kill any animal or reptile other than snakes, poisonous animals and pests likely to damage or destroy plants.
9. No person shall bring into the Gardens any dog or other animal unless such animal is led.

10. (1) No person shall, within the Gardens, sell or expose for sale any curio, flower, seed, plant, food or drink.
(2) Where a person employed in the Gardens contravenes the provisions of paragraph (1) of this regulation, he may be dismissed from employment or otherwise punished.
11. No person shall, unless he is employed in the Gardens, pick or gather therein any seed, flower, fruit, or plant.
12. Every vehicle used on any road in the Gardens shall be driven on the left side of such road.
13. No motor vehicle shall be driven in the Gardens at a speed exceeding fifteen miles an hour.
14. No person shall use any motor omnibus, lorry or iron-tired vehicle in the Gardens unless the use of any such vehicle has been authorized by the curator.
15. Within the Gardens, no person shall—
 - (1) drive a horse-drawn cab or ride a horse;
 - (2) learn to drive a motor vehicle or to ride a bicycle;
 - (3) ride abreast or carry any other person on the pillion of a bicycle;
 - (4) park any vehicle on any lawn; or
 - (5) drive any vehicle over any lawn.

BOTANIC GARDENS, HAKGALA

1. In these regulations—
" Director " means the Director of Agriculture; and
" Gardens " means the Botanic Gardens, Hakgala.
2. (1) Subject to the provisions of paragraph (2) of this regulation, the Gardens shall be open to the public daily from 7 a.m. to 6 p.m.
(2) The orchid house in the Gardens shall be open to the public daily from 9 a.m. to 5.30 p.m.
3. The Director may, if he is satisfied that there are exceptional circumstances rendering the closure of the Gardens necessary, close the Gardens for a period not exceeding three days, after giving at least seven days' notice of the closure in the Gazette.
4. When the Gardens are closed to the public, the curator shall cause notices to that effect, in Sinhala, Tamil and English to be displayed at the entrance to the Gardens.
5. (1) Whenever any work of construction, reorganization or repair is commenced in any part of the Gardens, the Director or the curator shall have the power to prohibit the use of such part by the public for such time as may be necessary.
(2) Where the use of any part of the Gardens is prohibited the curator shall cause notices to that effect in Sinhala, Tamil and English to be displayed conspicuously in such part.
(3) No person shall fail to comply with a notice displayed under paragraph (2) of this regulation.
6. No person other than the curator, or a guide authorized by the curator shall conduct visitors round the Gardens.
7. No person shall enter or remain in the Gardens when he is under the influence of alcohol.
8. Within the Gardens, no person shall—
 - (1) behave in an indecent or disorderly manner or commit any nuisance therein;
 - (2) carry or use firearms or catapults of any description;
 - (3) molest or harass any other person;
 - (4) catch or feed fish in any pond or throw any matter into such pond ;

- (5) climb any tree or walk on any flower-bed or border;
 - (6) throw stones or sticks at any tree;
 - (7) damage or in any way injure any plant, tree or shrub;
 - (8) damage or in any way deface the seats, labels, buildings or any other property of the Government;
 - (9) catch or kill any bird or destroy any bird's nest;
 - (10) play football, rigger, hockey, cricket, volley ball or any other game prohibited by the curator; or
 - (11) kill any animal or reptile other than snakes, poisonous animals and pests likely to damage or destroy plants.
9. No person shall bring into the Gardens any dog or other animal unless such animal is led.
10. (1) No person shall, within the Gardens, sell or expose for sale, any curio, flower, fruit, seed, plant, food or drink.
- (2) Where a person employed in the Gardens contravenes the provision of paragraph (1) of this regulation, he may be dismissed from employment or otherwise punished.
11. No person shall, unless he is employed in the Gardens, pick or gather therein any seed, flower, fruit or plant.
12. Every vehicle used on any road in the Gardens, shall be driven on the left side of such road.
13. No motor vehicle shall be driven in the Gardens at a speed exceeding fifteen miles an hour.
14. No person shall use any motor omnibus, lorry or iron-tyred vehicle in the Gardens unless the use of any such vehicle has been authorized by the curator.
15. Within the Gardens, no person shall—
- (1) drive a horse-drawn cab or ride a horse;
 - (2) learn to drive a motor vehicle or to ride a bicycle ;
 - (3) ride abreast or carry any other person on the pillion of a bicycle;
 - (4) park any vehicle on any lawn, or drive any vehicle over any lawn.

BOTANIC GARDENS, HENERATGODA (GAMPAHA)

1. In these regulations—
- " Director " means the Director of Agriculture; and
- " Gardens " means the Botanic Gardens, Heneratgoda (Gampaha).
2. (1) Subject to the provisions of paragraph (2) of this regulation, the Gardens shall be open to the public daily from 7 a.m. to 6 p.m.
- (2) The orchid house in the Gardens shall be open to the public daily from 9 a.m. to 5.30 p.m.
3. The Director may, if he is satisfied that there are exceptional circumstances rendering the closure of the Gardens necessary, close the Gardens for a period not exceeding three days, after giving seven days' notice of the closure in the Gazette.
4. When the Gardens are closed to the public, the curator shall cause notices to that effect in Sinhala, Tamil and English to be displayed at the entrance to the Gardens.
5. (1) Whenever any work of construction, reorganization or repair is commenced in any part of the Gardens, the Director or the curator shall have the power to prohibit the use of such part by the public for such time as may be necessary.
- (2) Where the use of any part of the Gardens is prohibited, the curator shall cause notices to that effect in Sinhala, Tamil and English to be displayed conspicuously in such part.

- (3) No person shall fail to comply with a notice displayed under paragraph (2J) of this regulation.
6. No person other than the curator or a guide authorized by the curator shall conduct visitors round the Gardens.
7. No person shall enter or remain in the Gardens when he is under the influence of alcohol.
8. Within the Gardens no person shall—
 - (1) behave in an indecent or a disorderly manner or commit any nuisance therein;
 - (2) carry or use firearms or catapults of any description;
 - (3) molest or harass any other person;
 - (4) catch or feed fish in any pond or throw any matter into such pond ;
 - (5) climb any tree or walk on any flower-bed or border;
 - (6) throw stones or sticks at any tree;
 - (7) damage or in any way injure any plant, tree or shrub;
 - (8) damage or in any way deface the seals, labels, buildings or any other property of the Government;
 - (9) catch or kill any bird or destroy any bird's nest; or
 - (10) kill any animal or reptile other than snakes, poisonous animals and pests likely to damage or destroy plants.
9. No person shall bring into the Gardens any dog or other animal unless such animal is led,
10. (1) No person shall, within the Gardens, sell or expose for sale any curio, flower, fruit, seed, plant, food or drink.
 - (2) Where a person employed in the Gardens contravenes the provisions of paragraph (1) of this regulation, he may be dismissed from employment or otherwise punished,
11. No person shall, unless he is employed in the Gardens, pick or gather therein any seed, flower, fruit or plant.
12. Every vehicle used on any road in the Gardens shall be driven on the left side of such road.
13. No motor vehicle shall be driven in the Gardens at a speed exceeding fifteen miles an hour.
14. No person shall use any motor omnibus, lorry or iron-tired vehicle in the Gardens unless the use of any such vehicle has been authorized by the curator.
15. Within the Gardens, no person shall—
 - (1) drive a horse-drawn cab, or ride a horse;
 - (2) learn to drive a motor vehicle or to ride a bicycle;
 - (3) ride abreast or carry any other person on the pillion of a bicycle;
 - (4) park any vehicle on any lawn; or
 - (5) drive any vehicle over any lawn.

CHAPTER 101

BRITISH MAINTENANCE ORDERS

Ordinance:

Nos. 15 of 1921, AN ORDINANCE TO FACILITATE THE ENFORCEMENT IN SRI LANKA OF MAINTENANCE
11 of 1922, ORDERS MADE IN BRITAIN OR ANY BRITISH POSSESSION OR PROTECTORATE OR IN
24 of 1929, ANY OTHER COUNTRY WHICH IS A MEMBER OF THE COMMONWEALTH.

Ads

Nos. 42 of 1956.
6 of 1957.

[16th December, 1921.]

Short title. **1.** This Ordinance may be cited as the Maintenance Orders (Facilities for Enforcement) Ordinance.

Interpretation. **2.** For the purposes of this Ordinance—
" certified copy " in relation to an order of a court means a copy of the order certified by the proper officer of the court to be a true copy;

" dependents " means such persons as that person is, according to the law in force in England, Northern Ireland, or Sri Lanka, as the case may be, liable to maintain;

" maintenance order " means an order other than an order of affiliation for the periodical payment of sums of money towards the maintenance of the wife or other dependents of the person against whom the order is made;

" prescribed " means prescribed by regulations made by the President.

Enforcement in Sri Lanka of maintenance orders made in England or Northern Ireland.

3* Where a maintenance order has, whether before or after the passing of this Ordinance, been made against any person by any court in England or Northern Ireland, and a certified copy of the order has been transmitted to the President by a Secretary of State, the President shall send a copy of the order to the prescribed officer of a Family Court* in Sri Lanka for registration; and on receipt thereof the

order shall be registered in the prescribed manner, and shall, from the date of such registration, be of the same force and effect, and, subject to the provisions of this Ordinance, all proceedings may be taken on such order as if it had been an order originally obtained in the court in which it is so registered, and that court shall have power to enforce the order accordingly.

4. Where a Family Court* in Sri Lanka had made a maintenance order against any person, and it is proved to that court that the person against whom the order was made is resident in England or Northern Ireland, the court shall send to the President for transmission to a Secretary of State a certified copy of the order.

5. (1) Where an application is made to a Family Court* in Sri Lanka for a maintenance order against any person, and it is proved that that person is resident in England or Northern Ireland, the court may, in the absence of that person, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if a summons had been duly served on that person and he had failed to appear at the hearing, but in such case the order shall be provisional only, and shall have no effect unless and until confirmed by a competent court in England or Northern Ireland.

(2) The evidence of any witness who is examined on any such application shall be put into writing, and such deposition shall be read over to and signed by him.

Transmission of maintenance orders made in Sri Lanka

power to make provisional orders of maintenance against persons resident in England or Northern Ireland

* The jurisdiction of the Family Court in maintenance matters has since been removed from such court by the Judicature (Amendment) Act, No. 71 of 1981, and revested in the Magistrate's Court.

(3) Where such an order is made, the court shall send to the President, for transmission to a Secretary of State, the depositions so taken and a certified copy of the order, together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing, and such information as the court possesses for facilitating the identification of that person, and ascertaining his whereabouts.

(4) Where any such provisional order has come before a court in England or Northern Ireland for confirmation, and the order has by that court been remitted to the Family Court* in Sri Lanka which made the order for the purpose of taking further evidence, that court shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application. If upon the hearing of such evidence it appears to such Family Court* that the order ought not to have been made, the court may rescind the order, but in any other case the depositions shall be sent to the President and dealt with in like manner as the original depositions.

(5) The confirmation of an order made under this section shall not affect any power of a Family Court* to vary or rescind that order:

Provided that on the making of a varying or rescinding order the court shall send a certified copy thereof to the President, for transmission to a Secretary of State, and that in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

(6) The applicant shall have the same right of appeal, if any, against a refusal to make a professional order as he would have had against a refusal to make the order had a summons been duly served on the person against whom the order is sought to be made.

6. (1) Where a maintenance order has been made by a court in England or Northern Ireland, and the order is provisional only, and has no effect unless and until confirmed by a Family Court* in Sri Lanka, and a certified copy of the order, together with the depositions of witnesses and a statement of the grounds on which the order might have been opposed has been transmitted to the President, and it appears to the President that the person against whom the order was made is resident in Sri Lanka the President may send the said documents to the prescribed officer of a Family Court*, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and upon receipt of such documents and requisition the court shall issue such a summons and cause it to be served upon such person.

Power of Family Court* to confirm maintenance order made in England or Northern Ireland.

(2) At the hearing it shall be open to the person on whom the summons was served to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(3) If at the hearing the person served with the summons does not appear or, on appearing, fails to satisfy the court that the order ought not to be confirmed, the court may confirm the order either without modification or with such modifications as to the court after hearing the evidence may seem just.

(4) If the person against whom the summons was issued appears at the hearing and satisfies the court that for the purpose of any defence it is necessary to remit the case to the court which made the

* See footnote to section 3.

provisional order for the taking of any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.

(5) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming court, and where on an application for rescission or variation the court is satisfied that it is necessary to remit the case to the court which made the order for the purpose of taking any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.

(6) Where an order has been so confirmed, the person bound thereby shall have the same right of appeal, if any, against the confirmation of the order as he would have had against the making of the order had the order been an order made by the court confirming the order.

7. The President may make regulations as to the manner in which a case can be remitted by a court authorized to confirm a provisional order to the court which made the provisional order, and generally for facilitating communications between such courts.

8. (1) A court in Sri Lanka in which an order has been registered under this Ordinance, or by which an order has been confirmed under this Ordinance, and the officers of such court, shall take all such steps for enforcing the order as may be prescribed.

(2) Every such order shall be enforceable as if it were an order made by such court under sections 8, 8A+ or 8B+ of the Maintenance Ordinance.

(3) A warrant of distress or commitment issued by the court for the purpose of enforcing any order so registered or confirmed may be executed in any part of Sri Lanka in the same manner as if the warrant had been originally issued by a Family Court having jurisdiction in the place where the warrant is executed.

* See footnote to section 3.

+ References to sections 8A and 8B have been added consequent to the amendment made by section 5 of Act No. 19 of 1972.

9. The Code of Criminal Procedure Act shall apply to proceedings before a Family Court* under this Ordinance as it applies to proceedings under the Maintenance Ordinance.

Code of Criminal Procedure Act to apply to proceedings under this Ordinance.

10. Any document purporting to be signed by an officer of a court of summary jurisdiction in England or Northern Ireland shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the court to sign the document.

Proof of documents signed by officers of court.

11. Depositions taken in a court in England or Northern Ireland may be received in evidence in proceedings before Family Courts* under this Ordinance.

Depositions to be evidence.

12. Where the President is satisfied that reciprocal provisions have been made by the Legislature of any British possession or any territory under British protection or of any country which is a member of the Commonwealth for the enforcement within such possession, territory or country of maintenance orders made by courts in Sri Lanka, the President may by Proclamation to be published in the Gazette extend this Ordinance to such possession, territory or country, and this Ordinance shall thereupon apply in respect of such possession, territory or country as though the references to England or Northern Ireland were references to such possession, territory or country and the references to a Secretary of State were references to the officer (designated Governor, High Commissioner or otherwise) who is for the time being administering the Government of such possession or territory and to the authority appointed by, or under the law of, such country to receive and transmit documents to which this Ordinance applies.

Reciprocal arrangements with British possessions or protectorates and countries which are members of the Commonwealth. [§ 3, 42 of 1956.]

(§2, 6 of 1957.)

Power of President to make regulations for facilitating communications between courts.

Mode of enforcing orders.

CHAPTER 180

BUSINESS NAMES

Ordinances AN ORDINANCE TO PROVIDE FOR THE REGISTRATION OF FIRMS AND PERSONS
Nos. 6 of 1918, CARRYING ON BUSINESS UNDER BUSINESS NAMES AND FOR PURPOSES
27 of 1919, CONNECTED THEREWITH.
8 of 1938.

[7th November. 1918.]

Short title, **1.** This Ordinance may be cited as the Business Names Ordinance.

Firms and persons to be registered. **2.** Subject to the provisions of this Ordinance-

(ii) where the business is so carried on by the assignee of an insolvent's estate, or a receiver or manager or curator appointed by any court, registration shall not be necessary ; and

(a) every firm having a place of business in Sri Lanka and carrying on business under a business name which does not consist of the true full names of all partners who are individuals and the corporate names of all partners who are corporations without any addition;

(iii) a purchase or other acquisition of property by two or more persons is not of itself to be deemed carrying on a business, whether or not the owners share any profits arising from the sale thereof.

(b) every individual having a place of business in Sri Lanka and carrying on business under a business name which does not consist of his true full names without any addition; and

3. Where a firm, individual, or corporation having a place of business within Sri Lanka carries on the business wholly or mainly as nominee or trustee of or for another person, or other persons, or another corporation, or acts as agent for any foreign firm for the general purposes of the business of such foreign firm in Sri Lanka, the first-mentioned firm, individual, or corporation shall be registered in manner provided by this Ordinance, and in addition to the other particulars required to be furnished and registered, there shall be furnished and registered the particulars mentioned in the Schedule, or such other particulars as the Minister, by notification in the Gazette, may require: Registration by nominee, &c

(c) every individual or firm having a place of business in Sri Lanka who, or a member of which, has either before or after the passing of this Ordinance changed his name, except in the case of a woman in consequence of marriage,

shall be registered in the manner directed by this Ordinance:

Provided that—

Provided that where the business is so carried on by the assignee of an insolvent estate, or a receiver or manager or curator appointed by any court, registration under this section shall not be necessary.

(i) where the addition merely indicates that the business is carried on in succession to a former owner of the business, that addition shall not of itself render registration necessary ; and

4. (I) Every firm or person required under this Ordinance to be registered shall furnish, by sending by post or delivering to the Registrar at the register office in that Manner and particulars of registration.

part of Sri Lanka in which the principal place of business of the" firm or person is situated, a statement" "in writing in the prescribed form containing the following particulars;—

- (a) the business name;
- (b) the general nature of the business;
- (c) the principal place of business;
- (d) where the registration to be effected is that of a firm, the present name (in full), any former name (in full), the nationality, and where that nationality is not the nationality of origin, the nationality of origin, the usual residence, and the other business occupation, if any, of each of the individuals who are partners, and the corporate name and registered or principal office of every corporation which is a partner;
- (e) where the registration to be effected is that of an individual, the present name (in full), any former name (in full), the nationality, and if that nationality is not the nationality of origin, the nationality of origin, the usual residence, and the other business occupation, if any, of such individual;
- (f) where the registration to be effected is that of a corporation, its corporate name and registered or principal office and the names and nationalities of its directors;
- (g) if the business is commenced after the passing of this Ordinance, the date of the commencement of the business.

(2) Where a business is carried on under two or more business names, each of those business names must be stated.

5. The statement required for the purpose of registration must in the case of an individual be signed by him, and in the case of a corporation by a director or secretary thereof, and in the case of a firm

either by the individuals who are partners, and by a director or secretary of all corporations which are partners, or by some individual who is a partner, or a director or the secretary of some corporation which is a partner, and in either of the last two cases must be verified by an affidavit made by the signatory:

Provided that no such affidavit stating that any person other than the declarant is a partner, or omitting to state that any person other than as aforesaid is a partner, shall be evidence for or against any such other person in respect of his liability or non-liability as a partner, and that the appropriate District Court may on application of any person alleged or claiming to be a partner direct the rectification of the register and decide any question arising under this section,

6. (1) The particulars required to be furnished under this Ordinance shall be furnished within fourteen days after the firm or person commences business, or the business in respect of which registration is required, as the case may be, or within such further period as the Registrar may on application allow;

Time for registration.

Provided that if such firm or person has carried on such business before the passing of this Ordinance or commences such business within two months thereafter, the statement of particulars shall be furnished before the expiration of six months from the commencement of this Ordinance, or within such further period as the Registrar may in any special case allow.

(2) This section shall apply in the case where registration is required in consequence of a change of name, as if for references to the date of the commencement of the business there were substituted references to the date of such change.

7. Whenever a change is made or occurs in any of the particulars registered in respect of any firm or person, such firm or person shall, within fourteen days after such change, or such further period as the Registrar may on application allow, furnish by sending by post or delivery to the Registrar in that part of Sri Lanka in which

Registration of changes in firm.

Statement to be signed by persons registering.

the aforesaid particulars are registered, a statement in writing in the prescribed form specifying the nature and date of the change, signed, and, where necessary, verified, in like manner as the statement required on registration.

Penalty for default in registration.

8. If any firm or person by this Ordinance required to furnish a statement of particulars or of any change in particulars shall, without reasonable excuse, make default in so doing in the manner and within the time specified by this Ordinance, every partner in the firm or the person so in default shall be liable, on summary conviction, to a fine not exceeding one hundred rupees for every day during which the default continues, and the court before which such partner or person shall be tried shall order a statement of the required particulars or change in the particulars to be furnished to the Registrar within such time as may be specified in the order:

Provided that—

- (a) the Registrar to whom a statement is required to be furnished as aforesaid may, if he thinks fit, instead of instituting proceedings as aforesaid, accept from any such partner or person such sum of money as such Registrar may consider proper in composition of the offence committed by him;
- (b) when such Registrar has accepted any such sum of money as aforesaid, proceedings under this section shall not be taken, or if already taken shall not be continued in respect of such offence, against the partner or person so compounding as aforesaid.

Disability of persons in default

9. (1) Where any firm or person required by this Ordinance to furnish a statement of particulars or of any change in particulars in respect of any business shall have made default in so doing, then the rights of that defaulter under or of arising out of any contract in relation to that business made or entered into by or on behalf of such defaulter at any time while he is in default shall not be enforceable by action or other legal proceeding either in the business name or otherwise:

Provided that—

- (a) the defaulter may apply to the court for relief against the disability imposed by this section, and the court, on being satisfied that the default was accidental, or due to inadvertence or some other sufficient cause, or that on other grounds it is Just and equitable to grant relief, may grant such relief either generally, or as respects any particular contracts, on condition of the costs of the application being paid by the defaulter, unless the court otherwise orders, and on such other conditions, if any, as the court may impose; but such relief shall not be granted except on such service and such publication of notice of the application as the court may order, nor shall relief be given in respect of any contract if any party to the contract proves to the satisfaction of the court that, if the provisions of this Ordinance had been complied with, he would not have entered into the contract;
- (b) nothing herein contained shall prejudice the rights of any other parties as against the defaulter in respect of such contract as aforesaid;
- (c) if any action or proceeding shall be commenced by any other party against the defaulter to enforce the rights of such party in respect of such contract, nothing herein contained shall preclude the defaulter from enforcing in that action or proceeding, by way of counter-claim, set-off or otherwise, such rights as he may have against that party in respect of such contract.

(2) In this section, "court" means the court in which any action or other legal proceeding to enforce a contract is commenced by a defaulter.

10. If any statement required to be furnished under this Ordinance contains any matter which is false in any material

Penalty for false statements

particular to the knowledge of any person signing it, that person shall, on summary conviction, be liable to imprisonment of either description for a term not exceeding three months, or to a fine not exceeding three hundred rupees, or to both such imprisonment and fine.

Duty to furnish particulars to registrar.

11. (1) The Registrar may require any person to furnish to him such particulars as appear necessary to him for the purpose of ascertaining whether or not such person or the firm of which he is partner should be registered under this Ordinance, or an alteration made in the registered particulars, and may also in the case of a corporation, require the secretary or any other officer of a corporation performing the duties of secretary to furnish such particulars; and if any person when so required fails to supply such particulars as it is in his power to give, or furnishes particulars which are false in any material particular, he shall be guilty of an offence, and shall, on summary conviction, be liable to imprisonment of either description for a term not exceeding three months, or to a fine not exceeding three hundred rupees, or to both such imprisonment and fine.

(2) If from any information so furnished it appears to the Registrar that any firm or person ought to be registered under this Ordinance, or an alteration ought to be made in the registered particulars, he may require the firm or person to furnish to him the required particulars within such time as may be allowed by him; but where any default under this Ordinance has been discovered from the information acquired under this section, no proceedings under this Ordinance shall be taken against any person in respect of such default prior to the expiration of the time within which the firm or person is required by the Registrar under this section to furnish particulars to him.

Registrar to file statement and issue certificate of registration,

12. On receiving any statement or affidavit made in pursuance of this Ordinance, the Registrar shall cause the same to be filed, and he shall send by post or deliver a certificate of the registration thereof to the firm or person registering, and the certificate or a certified copy thereof shall be kept exhibited in a conspicuous position at the principal place of business of the firm or individual, and if not kept so

exhibited, every partner in the firm or the person, as the case may be, shall be guilty of an offence, and liable, on summary conviction, to a fine not exceeding three hundred rupees.

13. At each of the register offices hereinafter referred to the Registrar shall keep an index of all the firms and persons registered at that office under this Ordinance, and at the principal register office a general index of all firms and persons so registered at every office throughout Sri Lanka. index to be kept.

14. (1) If any firm or individual registered under this Ordinance ceases to carry on business, it shall be the duty of the persons who were partners in the firm at the time when it ceased to carry on business, or of the individual, or if he is dead, his personal representative, within three months after the business has ceased to be carried on, to send by post or deliver to the Registrar notice in the prescribed form that the firm or individual has ceased to carry on business, and if any person whose duty it is to give such notice fails to do so within such time as aforesaid, he shall be liable on summary conviction to a fine not exceeding three hundred rupees. Removal of name from register

(2) On receipt of such a notice as aforesaid the Registrar may remove the name of such firm or individual from the register.

(3) Where the Registrar has reasonable cause to believe that any firm or individual registered under this Ordinance is not carrying on business, he may send to the firm or individual by registered post a notice that unless an answer is received to such notice within one month from the date thereof, the name of the firm or individual may be removed from the register.

(4) If the Registrar either receives an answer from the firm or individual to the effect that the firm or individual is not carrying on business, or does not within one month after sending the notice receive an answer, he may remove the name of the firm or individual from the register.

15. (1) Where the Registrar is satisfied the nationality of the person or persons by whom any business carried on under a business name which is required under this Ordinance to be registered is wholly or mainly owned or controlled is at any time such that the business name under which the business is carried on is misleading, the Registrar shall refuse to register such business name, or, as the case may be, remove such business name from the register; but any person aggrieved by a decision of the Registrar under this provision may appeal to the Minister, whose decision shall be final.

(2) Where the business name of any business which is owned or controlled wholly or mainly by persons who are not citizens of Sri Lanka is of a descriptive character, that is to say, where it is composed of or contains words intended to indicate the nature of the business, such business name shall be deemed to be misleading, unless it contains some indication which, in the opinion of the Registrar, is sufficient to intimate that the persons by whom the business is wholly or mainly owned or controlled are not citizens of Sri Lanka.

(3) Any person continuing to use a misleading business name after the registration of such name has been refused under this section, or after such name has been removed from the register, shall be guilty of an offence, and liable on summary conviction to a penalty of one hundred rupees in respect of every day on which such person shall use the said name.

(4) The registration of a business name under this Ordinance shall not be construed as authorizing the use of that name, if, apart from such registration, the use thereof could be prohibited.

16. (1) Any person may inspect the documents filed by the Registrar on payment of such fees as may be prescribed, not exceeding one rupee for each inspection; and any person may require a certificate of the registration of any firm or person, or a copy of or extract from any registered statement to be certified by the Registrar or his assistant; and there shall be

paid for such certificate of registration, certified copy, or extract such fees as may be prescribed, not exceeding two rupees for the certificate of registration, and not exceeding fifty cents for each folio of seventy-two words of the entry, copy, or extract.

(2) A certificate of registration or a copy of or extract from any statement registered under this Ordinance, if duly certified to be a true copy or extract under the hand of the Registrar or his assistant (whom it shall not be necessary to prove to be the Registrar or Assistant Registrar), shall in all legal proceedings, civil or criminal, be received in evidence.

17. (1) The Minister may make rules or orders concerning any of the following matters;— Power to make rules

- (a) the appointment of a Registrar and Assistant Registrars and for the establishment of register offices for the purposes of this Ordinance ;
- (b) the fees to be paid to the Registrar and Assistant Registrars under this Ordinance, so that they do not exceed the sum of five rupees for the registration of any one statement;
- (c) the forms to be used under this Ordinance;
- (d) the duties to be performed by the Registrar and Assistant Registrars under this Ordinance;
- (e) the performance by Assistant Registrars and other officers of acts by this Ordinance required to be done by the Registrar;
- (f) the periodical publication in the Gazette or otherwise of the registers kept under this Ordinance, or of particulars on returns of particulars therein contained;
- (g) generally the conduct and regulation of registration under this Ordinance and any matters incidental thereto.

Misleading business names

inspection of statements registered.

(2) All fees payable in pursuance of any such rules or orders shall be applied as the Minister may direct.

otherwise requires—

Offences by corporations,

18. Where a corporation is guilty of an offence under this Ordinance, every director, secretary, and officer of the corporation who is knowingly a party to the default shall be guilty of a like offence, and liable to a like penalty.

" business " includes profession ;

" business name " means the name or style under which any business is carried on, whether in partnership or otherwise, and includes a *vilasam*;

" director " and " secretary " include any person occupying the position of director or secretary, by whatever name called ;

Businesses carried on by local managers.

19. In any case in which any individual, or all the partners of any firm, or all the directors and the secretary of any corporation required under this Ordinance to be registered reside outside Sri Lanka, and the business of the individual, firm, or corporation is carried on in Sri Lanka the name of the individual, firm, or corporation by a local manager, such local manager shall be personally responsible for the discharge of all obligations attaching to the individual, firm, or corporation under this Ordinance ; and in the case of any default in respect of any such obligation, such local manager shall be subject to the same responsibilities, liabilities, and penalties as the individual in whose name he carries on the business, or of a partner in the firm, or of a director or secretary of the corporation, as the case may be, and all the penal and other provisions of this Ordinance shall be construed accordingly.

" firm " means an unincorporate body of two or more individuals, or one or more individuals and one or more corporations, or two or more corporations who have entered into partnership with one another with a view to carrying on business for profit;

" foreign firm " means any firm, individual, or corporation whose principal place of business is situate outside Sri Lanka ;

" full name " includes any case in which a surname or other final name appears in full, and in which the preceding names either appear in full or are represented by initials ;

" individual " means a natural person, and does not include a corporation ;

" person " includes a corporation ;

" prescribed " means prescribed by rules or orders made in pursuance of this Ordinance.

Interpretation.

20. In this Ordinance, unless the context

[Section 3.]

SCHEDULE

Description of Firm. &c.

The Additional Particulars

Where the firm, individual, or corporation required to be registered carries on business as nominee or trustee

The present Christian name and surname, any former name, nationality, and, if that nationality is not the nationality of origin, the nationality of origin, and usual residence, or, as the case may be, the corporate name, of every person or corporation on whose behalf the business is carried on and the general nature of such business :

Provided that if the business is carried on under any trust, and any of the beneficiaries are a class of children or other persons, a description of the class shall be sufficient.

Where the firm, individual, or corporation required to be registered carries on business as agent for the general purposes of the business of any foreign firm in Sri Lanka

The business name and address of the firm or person as agent for whom the business is carried on and the general nature of such business :

Provided that if the business is carried on as agent for three or more foreign firms, it shall be sufficient to state the fact that the business is so carried on, specifying the firms and the countries in which such firms carry on business.

CHAPTER 302

BANK OF CEYLON

Ordinances AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT AND REGULATION OF A STATE-AIDED BANK IN SRI LANKA.

Nos. 53 of 1938,
45 of 1939,
53 of 1943,
4 of 1944,
34 of 1944,
7 of 1945,

Acts
Nos. 39 of 1949,
19 of 1952,
42 of 1954,
37 of 1955,
34 of 1968,

Law
No. 10 of 1974,
Act
No. 60 of 1980.

[1st December, 1938.]

Short title. **1.** This Ordinance may be cited as the business, and administering the affairs, of the Bank of Ceylon Ordinance. the bank.

Establishment of bank. **2.** A bank to be called the Bank of Ceylon is hereby established. (3) No act or proceeding of the board shall be invalid by reason only of the existence of any vacancy among the directors or any defect in the appointment of a director or authorization by the *ex officio* director under subsection (8).

Incorporation of bank. **3.** The bank shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name. (4) A Member of Parliament shall not be qualified to be a director.

Central office. **4.** The central office of the bank shall be at Colombo in Sri Lanka. (5) The Minister shall appoint one of the appointed directors as the chairman of the board.

Branches and agencies. **5.** The bank may establish and maintain—

(a) agencies in any part of the world ;

(b) branches in Sri Lanka or elsewhere. (6) Every appointed director shall hold office for a period of three years, unless he is earlier removed from office or vacates his office,

Board of directors of the bank. **6.** (1) The management and administration of the affairs of the bank shall be vested in a board, consisting of six directors appointed by the Minister, one of whom shall be a representative of the Ministry charged with the subject of Finance (hereinafter referred to as the "*ex officio* director *"). (7) If any appointed director is temporarily unable to discharge the duties of his office on account of ill health, or absence from Sri Lanka, or any other cause, the Minister may appoint some other person to act as a director in his place.

(2) The board may exercise, discharge or perform the powers, functions or duties of the bank for the purpose of carrying on the (8) If the *ex officio* director is unable to attend any meeting of the board, he may authorize any other officer to be present on his behalf at such meeting; and the officer so authorized shall be deemed for the purpose of such meeting to be a member of the board.

(9) An appointed director may resign his office by letter addressed to the Minister.

(10) The Minister may, if he thinks it expedient to do so, remove an appointed director from office.

(11) A director who vacates office by resignation or effluxion of time shall be eligible for reappointment.

(12) The *ex officio* director shall have all the same rights and privileges as the appointed directors.

(13) The provisions of subsections (1), (2) and (3) shall be deemed to have come into operation on October 12, 1961.

7. (1) The authorized capital of the bank shall be one thousand million rupees divided into one million shares of one thousand rupees each.

(2) The paid-up capital of the bank shall be such amount as may be determined from time to time by the Minister by Order published in the Gazette.

(3) The liability of the Government at any time as sole shareholder shall be limited to the total amount of the capital represented by the shares held for the time being by the Government.

8. (1) The board shall, out of the profits available for payment of dividend and before any dividend is declared, set aside a sum equivalent to twenty *per centum* of such profits to the credit of a fund called the permanent reserve fund of the bank until such permanent reserve fund is equivalent to one-half of the paid-up capital of the bank for the time being; and in the event that at any time thereafter the amount of such permanent reserve fund is less than one-half of the paid-up capital of the bank for the time being, the board shall as soon as practicable carry to that fund such further sum or sums out of the profits available for dividend as may be necessary until the amount of the permanent reserve fund is equivalent to one-half of the paid-up capital of the bank for the time being. The board may from time to time in its discretion carry to the permanent reserve fund out of profits such further sums as it may deem fit, in

addition to the sums required by the preceding provisions of this subsection to be carried thereto.

(2) The permanent reserve fund shall be shown separately in the balance sheet of the bank.

9. (1) In addition to the permanent reserve fund the board shall create a fund called the contingency fund of the bank and shall carry to that fund such sums out of the profits of the bank as the board thinks proper.

(2) The contingency fund may be applied from time to time in such manner as the board shall determine—

(a) for meeting depreciation and lossess;

(b) for equalizing dividends;

(c) for repairing, improving or maintaining any of the property of the bank;

(d) for any other purposes which the board may think proper.

(3) The board may divide the contingency fund into such special funds as it thinks fit, and may consolidate into one fund any special funds or any parts of any special funds into which the contingency fund may have been divided as it thinks fit, with full power to employ the whole or any part of the assets constituting the contingency fund in the business of the bank without being under any obligation to keep the same separate from other assets of the bank. The board may also, (subject to the provisions of this Ordinance), without placing the same to reserve, carry over any profits which it may think it is not prudent to divide.

(4) It shall not be necessary to show the contingency fund separately in the balance sheet of the bank.

10. (1) The Minister in charge of the subject of Finance shall guarantee the repayment of any sum due to the bank on any loan, overdraft, advance or other accommodation granted by the bank with the approval of such Minister under clause 3 (a) of Part II in the First Schedule hereto.

Contingency fund. [6, Law 10 of 1974.]

Capital. [§ 2, 60 of 1980.]

Permaneni reserve fund- [§ 5, Law 10 of 1974.]

Government guarantee. [7, Law 10 of 1974.]

(2) Any sum required for the fulfilment of a guarantee provided under subsection (1) may, with the approval of Parliament, be paid out of the Consolidated Fund.

(3) Immediately after a guarantee is given under subsection (1), the Minister in charge of the subject of Finance shall lay a statement of the guarantee before the Cabinet of Ministers.

(4) Where any sum is paid out of the Consolidated Fund in fulfilment of a guarantee provided under subsection (1), the Minister in charge of the subject of Finance shall forthwith lay before Parliament a statement that such sum has been paid.

11. A director who or whose spouse or dependent child or a firm or company in which such director, his spouse or dependent child has a substantial interest is directly or indirectly interested in any business transacted or proposed to be transacted by the bank shall disclose the nature of such interest at the meeting of the board where such business is discussed. The disclosure shall be recorded in the minutes of the board and such director shall not take part in any deliberation or decision of the board with regard to that business and shall withdraw from such meeting whilst such deliberation is in progress or decision is being made.

12. A director for the time being of the bank who incurs an obligation or debt to any other bank or to a lending institution shall, within one month of the date on which such obligation or debt was incurred, disclose to the bank the particulars relating to such obligation or debt.

13. (1) Every application for any loan, overdraft, advance or other accommodation shall be made to the general manager or an officer nominated by him for the purpose.

(2) Every application made under subsection (1) which requires the approval of the board shall be submitted to the board together with the written observations of the general manager on such application.

(3) The manner in which every application made under subsection (1),

which does not require the approval of the board is disposed of by the general manager or other officer under the powers delegated by the board shall be reported to the board.

14. (1) Any person over sixteen years of age who has a deposit or savings account may nominate a person, (hereinafter called a "nominee"), to whom the moneys lying to the credit of such first-mentioned person (hereinafter called a "nominator") shall be paid upon his death and, if his death should occur while the account exists, the moneys shall be so paid subject to the provisions of this Ordinance.

(2) A nomination made under subsection (1) shall have effect upon the death of the nominator notwithstanding anything in his last will to the contrary.

(3) Any nomination made under subsection (1) shall be deemed to be revoked by the death of the nominee in the lifetime of the nominator or by written notice of revocation signed by the nominator in the presence of a witness (who shall attest the signature of the nominator) or by any subsequent nomination made by the nominator.

(4) The moneys lying in his deposit or savings account to the credit of the person who has made a nomination under subsection (1) shall, in the event of his death, be deemed not to form part of the estate or property of that person for the purpose of probate or administration proceedings under the Civil Procedure Code, and the transfer of such property shall not be an offence under section 547 of that Code.

(5) Upon the death of any person who has a savings account, and who has made a nomination under subsection (1), the bank shall communicate in writing by registered post with the Commissioner-General of Inland Revenue informing him of the name and address of such person, the fact of his death, the name and address of the nominee and the amount of the moneys lying to the credit of the nominator at the time of his death, and inquiring whether any, and if so what, sum of money should be withheld against payment of estate duty in respect of such moneys.

Nominations by persons having a deposit or savings account. [§ II, Law 10 of 1974.]

Disclosure of interest by a director. [§ 8, Law 10 of 1974.]

Director to disclose any obligation to other banks and lending institutions. [§ 9, Law 10 of 1974.]

Provisions relating to applications for loans, &c., and their disposal. [§ 10, Law 10 of 1974.]

(6) If the Commissioner-General of Inland Revenue informs the bank, in reply to the communication made under subsection (5), what sum of money should be withheld, the bank may withhold that sum and pay it to the Commissioner-General of Inland Revenue.

(7) If no reply, specifying what sum of money should be withheld, is received by the bank from the Commissioner-General of Inland Revenue to the communication made under subsection (5) within one month of the date of posting or handing over that communication, the bank may take action as if no sum of money need be withheld.

(8) No payment shall be made by the bank to any nominee unless the nominee—

- (a) submits an affidavit stating that he is the nominee; and
- (b) produces a certificate as to his identity from a person acceptable to the bank.

(9) A payment made subject to the deduction, if any, made under subsection (6) and the conditions set out in subsection (8), to any nominee of a nominator who has died shall be a complete discharge of the obligations of the bank in respect of the moneys lying to the credit of such nominator.

(10) Where, upon the death of any person who has a deposit or savings account, other than a nominator, there is a sum of money to the credit of such person in the bank, any officer or person who is duly authorized to make payments in respect of accounts may, if satisfied that such first-mentioned person died intestate and that letters of administration to the estate of such person are not required by any written law, pay such sums of money, subject to the provisions of this Ordinance, to the person or persons to whom such sum is required, in accordance with any rule in that behalf, to be paid:

Provided that until rules are made in that behalf, any such sum may be paid to the person or persons legally entitled to the payment thereof.

15. Where default is made in the payment of any sum due on any loan, overdraft, advance or other accommodation granted on the mortgage of movable or immovable property, whether that sum is due on account of principal or interest or both, default shall be deemed to have been made in respect of the whole of the unpaid portion of that loan, overdraft, advance or other accommodation and the interest due thereon up to date.

Default of payment. [§ 12, Law 10 of 1974.]

16. Where under the provisions of this Ordinance, default is made or deemed to have been made in respect of the whole of the unpaid portion of any loan, overdraft, advance or other accommodation and the interest due thereon, the board may, in its discretion, take action as specified either in section 17 or in section 19 :

Action by board where default is made. [§ 12, Law 10 of 1974.]

Provided that where the board has in any case taken action, or commenced to take action, in accordance with section 17, nothing shall be deemed to prevent the board at any time from subsequently taking action in that case by resolution under section 19 if the board deems it necessary or advisable to do so.

17. Subject to the provisions of section 20, the board may by resolution be recorded in writing authorize any person specified in the resolution to enter upon and take possession of any immovable property or seize any movable property mortgaged to the bank as security for any loan, overdraft, advance or other accommodation in respect of which default has been made and to manage and maintain such property, and to exercise the same powers in the control and management of such property as might have been exercised by the mortgagor if he had not made default.

Authorization of manager to take possession of mortgaged property. [§ 12, Law 10 of 1974.]

18. (1) Any person authorized by resolution of the board under section 17 in respect of any property shall be entitled generally to take action in terms of the resolution and in particular—

Procedure where manager is appointed. [§ 12, Law 10 of 1974.]

- (a) to sell the produce of such property;
- (b) to receive the rents, profits or other income from such property;

- (c) to pay the expenses incurred in the control and management of such property out of the income from such property;
 - (d) to appropriate to himself out of such income such sum (if any) as the board may deem fit to fix as remuneration for his services;
 - (e) to remain in possession of such property until all moneys due to the bank under the mortgage on such property have been fully paid or until he is directed by the board to yield possession of such property under subsection (2).
- (2) Every person authorized by resolution of the board under section 17 in respect of any property shall—
- (a) pay monthly, out of the income of such property such sum (if any) as the board may in its discretion fix, to the mortgagor for his maintenance;
 - (b) pay quarterly or as otherwise directed by the board to such person or persons and in such manner as the board may direct the balance of the income from such property remaining after the payments hereinbefore authorized have been made;
 - (c) keep and render to the board at such intervals as the board may determine, clear and accurate records of all sums received or paid out by him in respect of such property;
 - (d) yield possession of such property to the mortgagor or some other person as directed by the board and pay to the board any balance of the income from such property remaining in his hands after the payments hereinbefore authorized have been made.
- (3) The board shall when all sums due to the bank under the mortgage have been fully paid surrender possession of the

mortgaged property to the mortgagor and return to him any balance remaining of the income from such property.

19. Subject to the provisions of section 20 the board may by resolution to be recorded in writing authorize any person specified in the resolution to sell by public auction any movable or immovable property mortgaged to the bank as security for any loan, overdraft, advance or other accommodation in respect of which default has been made in order to recover the whole of the unpaid portion of such loan, overdraft, advance or other accommodation, and the interest due thereon up to the date of the sale, together with the moneys and costs recoverable under section 26.

Authorization of sale of mortgaged property. [§ 12, Law 10 of 1974.]

20. (1) Save as otherwise provided in subsection (2), the provisions of sections 17 and 19 shall apply in the case of any default notwithstanding that the borrower may have died or that any right, title or interest whatsoever in the property mortgaged as security for the loan, overdraft, advance or other accommodation may have passed by voluntary conveyance or by operation of law to any other person.

Where borrower is dead. [§ 12, Law 10 of 1974.]

(2) Where the borrower is dead and probate of his will or letters of administration to his estate have not been issued, the District Court of Colombo or the District Court of the district in which that property is situate or kept may, upon application made in that behalf by the board and after service of notice of the application on such persons, if any, as the court may order, and if satisfied that the grant of probate or the issue of letters of administration is likely to be unduly delayed, appoint a person to represent the estate of the borrower for the purposes of this section; and the provisions of sections 17 and 19 shall not apply in the case of any default made by the borrower unless and until a representative of his estate is appointed under this section.

21. Notice of every resolution under section 19 authorizing the sale of any property shall be published, in addition to the Gazette, in three daily newspapers in Sinhala, Tamil and English respectively, and copies of such notice shall be served on the borrower, if he is alive.

Notice of resolution of board to sell mortgaged property. [§ 12, Law 10 of 1974.]

Notice of sale.
[§ 12, Law 10
of 1974.]

22. Notice of the date, time and place of every sale shall, not less than fourteen days before the date fixed for the sale, be published in the Gazette and copies of such notice shall—

- (a) be served on the borrower, if he is alive;
- (b) where immovable property is to be sold, be posted on or near such property; and
- (c) be affixed to the walls of the kachcheri and the several District Courts, Magistrates' Courts and Primary Courts within the jurisdiction of which the property is situate or kept.

Payment before sale.
[§ 12, Law 10
of 1974.]

23. (1) If the amount of the whole of the unpaid portion of the loan, overdraft, advance or other accommodation (together with all interest due thereon according to the terms of the mortgage), and of the moneys and costs, if any, recoverable by the board under section 26 is tendered to the board at any time before the date fixed for the sale, the property shall not be sold and no further steps shall be taken in pursuance of the resolution under section 19 for the sale of that property.

(2) If the amount of the instalment or other payment in respect of which default has been made, together with any interest due thereon according to the terms of the mortgage, and of the moneys and costs, if any, recoverable by the board under section 26, is tendered to the board at any time before the date fixed for the sale, the board may, in its discretion, direct that the property shall not be sold, and that no further steps shall be taken in pursuance of the resolution under section 19 for the sale of that property.

Upset price.
[§ 12, Law 10
of 1974.]

24. The board may fix an upset price below which the property shall not be sold to any person other than the Bank.

Default in respect of one of several loans on same property.
[§ 12, Law 10
of 1974.]

25. In any case where more than one loan, overdraft, advance or other accommodation has been granted by the bank on the security of the same property and default is made in the payment of any sum due upon any one or more of such

loans, overdrafts, advances or other accommodation, the foregoing provisions of this Ordinance shall apply notwithstanding that default may not have been made in respect of any of the other loans, overdrafts, advances or other accommodation, and the board may, in any such case, by resolution under section 19 authorize the sale of the property for the recovery of the total amount due to the bank in respect of all such loans, overdrafts, advances and other accommodation, as the case may be, and the provisions of this Ordinance shall apply accordingly.

26. In addition to the amount due on any loan, overdraft, advance or other accommodation, the board may recover from the borrower, or any person acting on his behalf—

Recovery of expenses and costs incurred by the bank.
[12, Law 10
of 1974.]

- (a) all moneys expended by the bank in accordance with the covenants contained in the mortgage bond executed by the person to whom the loan, overdraft, advance, or other accommodation was made or in the payment of premiums and other charges in respect of any policy of insurance effected on the property mortgaged to the bank, and in the payment of all other costs and charges authorized to be incurred by the bank, under the covenants contained in such mortgage bond; and
- (b) the costs of advertising the sale and of selling the mortgaged property:

Provided that the costs incurred under this paragraph shall not exceed such percentage of the loan, overdraft, advance or other accommodation as may from time to time be fixed by resolution of the board.

27. If the mortgaged property is sold, the board shall, after deducting from the proceeds of the sale the amount due on the mortgage and the money and costs recoverable under section 26, pay the balance remaining, if any, either to the borrower or any person legally entitled to accept the payments due to the borrower, or

Payment of excess balance.
[12, Law 10
of 1974.]

where the board is in doubt as to whom the money should be paid, into the District Court of the district in which the mortgaged property is situate or kept.

in accordance with the provisions of Chapter XXIV of the Civil Procedure Code; and on all documents filed for the purpose of each such application and on all proceedings held thereupon, stamp duties and other charges shall be payable at the respective rates payable under any written law for the time being in force, on application for, and proceedings connected with or incidental to, the execution of a decree of a District Court for the delivery of possession of any immovable property of the same value as the land to which such application relates.

Certificate of sale.
[§12, Law 10 of 1974.]

28. (1) If the mortgaged property is sold, the board shall sign a certificate of sale and thereupon all the right, title and interest of the borrower to and in the property shall vest in the purchaser; and thereafter it shall not be competent for any person claiming through or under any disposition whatsoever of the right, title or interest of the borrower to and in the property, made or registered after the date of the mortgage of the property to the bank, in any court to move to invalidate the sale for any cause whatsoever or to maintain any right, title or interest to or in the property as against the purchaser.

(3) Where any immovable property sold in pursuance of the preceding provisions of this Ordinance is in the occupancy of the debtor or of some person on his behalf or of some person claiming under a title created by the debtor subsequently to the mortgage of the property to the bank, the District Court shall order delivery to be made by putting the purchaser, or any person whom he may appoint to receive possession on his behalf, in possession of the property.

(2) A certificate signed by the board under subsection (1) shall be conclusive proof, with respect to the sale of any property, that all the provisions of this Ordinance relating to the sale of that property have been complied with.

(4) Where any immovable property sold in pursuance of the preceding provisions of this Ordinance is in the occupancy of a tenant or other person entitled to occupy the same, the District Court shall order delivery to be made by affixing a notice that the sale has taken place, in the Sinhala, Tamil and English languages, in some conspicuous place on the property, and proclaiming to the occupant by beat of tom-tom, or in such other mode as may be customary, at some convenient place, that the interest of the debtor has been transferred to the purchaser. The cost of such proclamation shall be fixed by the court and shall in every case be prepaid by the purchaser.

(3) If the purchaser is some person other than the bank, the certificate shall be substantially in Form A in the Third Schedule hereto and, if the purchaser is the bank the certificate shall be substantially in Form B in that Schedule.

(4) Every certificate of sale shall be liable to stamp duty and charges as if it were a conveyance of property and to any registration and other charges authorized by law, all of which shall be payable by the purchaser.

Order for delivery of possession-
[§ 12, Law 10 of 1974.]

29. (1) The purchaser of any immovable property sold in pursuance of the preceding provisions of this Ordinance shall, upon application made to the District Court of Colombo or the District Court having jurisdiction over the place where that property is situate, and upon production of the certificate of sale issued in respect of that property under section 28, be entitled to obtain an order for delivery of possession of that property.

(5) Every order under subsection (3) or subsection (4) shall be deemed, as the case may be, to be an order for delivery of possession made under section 287 or 288 of the Civil Procedure Code, and be enforced in like manner as an order so made, the debtor and the purchaser being deemed, for the purpose of the application of any provision of that Code, to be the judgment-debtor and Judgment-creditor, respectively.

(2) Every application under subsection (1), shall be made, and shall be disposed of, by way of summary procedure

Cancellation of sale.
[§ 12, Law 10 of 1974.]

30. (1) Where the property sold has been purchased on behalf of the bank, the board may, at any time before it resells that property, cancel the sale by an endorsement to that effect on a certified copy of the certificate of sale, upon the debtor or any person on his behalf paying the amount due in respect of the loan, overdraft, advance or other accommodation, for which the property was sold (including the costs of seizure and sale) and interest on the aggregate sum at a rate not exceeding the prescribed rate.

(2) An endorsement made under this section shall—

- (a) in the case of movable property, immediately on the endorsement being made, and
- (b) in the case of immovable property, upon registration in the office of the Registrar of Lands,

have the effect of revesting the property in the debtor as though the sale under this Ordinance had not taken place.

Resale by bank.
[§ 12, Law 10 of 1974.]

31. (1) If the property sold has been purchased on behalf of the bank, and the sale is not cancelled under section 30, the board may, at any time, resell the property and transfer to the purchaser by endorsement on a certified copy of the certificate referred to in subsection (3) of section 28, all the right, title and interest which would have been acquired by the purchaser at the original sale.

(2) An endorsement made under this section shall be liable to the same stamp duty and charges as a certificate to a purchaser at the original sale and shall—

- (a) in the case of movable property, immediately on the endorsement being made, and
- (b) in the case of immovable property, upon registration in the office of the Registrar of Lands,

have the effect of vesting the property in the purchaser as though the sale under this Ordinance had not taken place.

32. Nothing in sections 16 to 31 shall be deemed to preclude the board from recovering the amount due on any mortgage bond in accordance with the provisions of any other written law.

Board not precluded from other methods of recovery.
[§ 12, Law 10 of 1974.]

33. The Minister may from time to time give general or special directions in writing to the Board as to the performance of the duties and the exercise of the powers of the bank and it shall be the duty of the Board to comply with such directions.

Minister to give directions.
[§ 3, 60 of 1980.]

***41.** (1) Contracts on behalf of the bank may be made as follows:—

Contracts.

- (a) a contract which if made between private persons would be by law required to be in writing, may be made on behalf of the bank in writing under the common seal of the bank;
- (b) a contract which if made between private persons is by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the bank in writing signed by any person or persons duly authorized thereto as hereinafter provided; and
- (c) a contract which if made between private persons would by law be valid although made by parol only and not reduced into writing, may be made by parol on behalf of the bank by any person or persons duly authorized thereto as hereinafter provided.

(2) A contract made according to this section shall be effectual in law and shall bind the bank and all other parties thereto and their legal representatives.

(3) A contract made according to this section may be varied or discharged in the same manner in which it is authorized by this section to be made.

42. A bill of exchange or promissory note shall be deemed to have been made, executed, or endorsed on behalf of the bank, if made, executed, or endorsed in the

Bills of exchange and promissory notes.

Sections 34 to 40 (both inclusive) are repealed by Law No. 10 of 1974.

name of, or by or on behalf or on account of the bank by any person or persons duly authorized thereto as hereinafter provided.

(2) The expression "subordinate staff" for the purpose of section 56 and of subsection (1) shall include only such officers as are by the board deemed to be members of the subordinate staff.

Persons authorized to act on behalf of the bank.

43. No person other than the directors and persons thereunto expressly authorized by the board and acting within the limits of the authority so conferred on them shall have any authority to make, draw, accept or endorse any promissory note, bill of exchange, cheque or order for the payment of money in the name or on behalf of the bank or to enter into any contract so as to impose thereby any liability on the bank or otherwise to pledge the credit of the bank.

58. No general manager of the bank shall be dismissed except—

Dismissal of general manager. [§ 18, Law 10 of 1974.]

(a) on a resolution of the board passed by a majority of two-thirds of the directors for the time being holding office; and

(b) with the written approval of the Minister.

Execution of deeds abroad.

44. (1) The bank may, by writing under its common seal, empower any person either generally or in respect of any specific matter, as its attorney, to execute deeds on its behalf in any place not situate in Sri Lanka.

59. No director or officer of the bank shall be liable for any damage or loss suffered by the bank unless such damage or loss was caused by his misconduct or wilful default.

No liability for damage or loss caused otherwise than by misconduct or wilful default.

(2) A deed signed by such an attorney on behalf of the bank and under his signature or seal shall bind the bank and have the same effect as if it were under its common seal.

60. Every director, manager, secretary or other officer of the bank shall be indemnified by the bank from all losses and expenses incurred by him in or about the discharge of his duties, other than such losses and expenses as the board may deem to have been occasioned by his misconduct or wilful default.

Reimbursement for expenses incurred on behalf of the bank. [§ 19, Law 10 of 1974.]

Appointment of staff. [§ 16, Law 10 of 1974.]

***56.** (1) The board shall have power to appoint the staff of the bank including the subordinate staff:

Provided that the appointment of the general manager shall not be made without the previous approval in writing of the Minister;

Provided, further, that the Minister's approval shall not be necessary for the appointment of an officer of the bank to act for the general manager during his absence if such appointment is for a period not exceeding four months.

61. Every director, manager, auditor, officer, servant, agent, accountant, or other person employed in the business of the bank, shall, before entering upon his duties sign a declaration pledging himself to observe strict secrecy respecting all transactions of the bank, its customers, and the state of accounts with any person and all matters relating thereto and shall by such declaration pledge himself not to reveal any other matters which may come to his knowledge in the discharge of his duties except—

Declaration of secrecy.

(a) when required to do so—

(i) by the directors, or

(ii) by a court of law, or

(iii) by the person to whom such matters relate;

(b) in the performance of his duties; and

[§ 20, Law 10 of 1974.]

Officers to furnish security. [17.Law 10 of 1974.]

57. (1) Every officer and member of the subordinate staff of the bank shall give security to the satisfaction of the board for the due and faithful performance of his duties.

* Sections 45 to 55 (both inclusive) are repealed by Law No. 10 of 1974.

Declarations of secrecy made before 24th March, 1952.	(c) in order to comply with any of the provisions of this Ordinance or any other law.	69A. Notwithstanding the provisions of section 10 of the Rubber Control Act the bank may lawfully possess a quantity of rubber in excess of the quantity prescribed under that Act.	Bank may possess rubber in excess of quantity prescribed by Rubber Control Act. [§ 25, Law 10 of 1974.3]
Right to refuse to answer questions.	Every declaration made under this section before the 24th day of March, 1952, shall, for all purposes, have effect and be deemed to have had effect as though the reference in such declaration to "accounts with individuals" were a reference to "accounts with any person".	69B. Notwithstanding the provisions of section 15 of the Tea Control Act the bank may lawfully possess a quantity of made tea in excess of the quantity prescribed under that Act.	Bank may possess made tea in excess of quantity prescribed by Tea Control Act. [§ 25, Law 10 of 1974.]
Receipts when valid.	62. Every director, auditor, manager, secretary, or other officer of the bank shall, except when required to do so by a court or by any law, decline to answer any question concerning the business of the bank which may be put to him on any occasion whatsoever, if he considers that the answer to such question would disclose or tend to disclose the secrets of the bank or the business or affairs of any customer of the bank.	69C. Notwithstanding the provisions of section 17 of the Excise Ordinance the bank may lawfully possess a quantity of any excisable article in excess of the quantity declared under section 4 of that Ordinance to be the limit of sale by retail.	Bank may possess excise articles in excess of quantity declared to be limit of sale by retail. [§ 25, Law 10 of 1974.]
Inspection of documents. [§ 21, Law 10 of 1974.]	63. A receipt signed by two directors or by any person expressly authorized by the board to give receipts shall be an effectual discharge for moneys paid to the bank.	69D. The provisions of the Tea and Rubber Estates (Control of Fragmentation) Act shall not apply to the transfer of ownership by the bank of any immovable property the sale of which is authorized by the board under section 19 of this Ordinance.	Tea and Rubber Estates (Control of Fragmentation) Act not to apply to transfer of property authorized to be sold under section 19. [§ 25, Law 10 of 1974.]
Application of the provisions of the Public Corporations (Financial Control) Act. [§ 22, Law 10 of 1974.]	64. No person, unless he is a director, auditor, officer, accountant or clerk of the bank or other person whose duties require him to do so, shall be entitled to inspect any of the books, accounts, documents or writings of the bank, except where he is authorized to do so under any written law.	70. (1) The provisions of the Companies Ordinance! or any other enactment regulating the incorporation of companies shall not apply to the bank.	Application of the provisions of the Companies Ordinance.
Money Lending Ordinance and Debt Conciliation Ordinance not to apply to debts due to the bank. [§ 24, Law 10 of 1974.]	65. The provisions of the Public Corporations (Financial Control) Act shall, <i>mutatis mutandis</i> , apply to the financial control and accounts of the bank.	(2) Notwithstanding the provisions of subsection (1) the Minister may, whenever it shall seem to him expedient to do so, by Order declare that any one or more or all the provisions of the said Ordinance or any other enactment relating to companies for the time being in force shall apply to the bank and such provision or provisions shall thereupon have effect as if such provision or provisions are part of this Ordinance.	
Pawnbrokers Ordinance not to apply to debts due to the bank. [§ 24, Law 10 of 1974.]	*68. Nothing in the Money Lending Ordinance or the Debt Conciliation Ordinance shall apply or be deemed to apply to any debt due to the bank, or to prejudice or affect the rights of the bank in respect of the recovery of any such debt.	71. Subject to the provisions of this Ordinance the business which the bank is authorized to carry on and transact shall be	Business which the bank transact.
	69. The Pawnbrokers Ordinance shall not apply to the bank where the bank carries on the business of a pawnbroker.		

* Sections 66 and 67 are repealed by Law No. 10 of 1974.
 † Repealed and replaced by the Companies Act, No. 17 of 1982.

the several kinds of business specified in Part I of the First Schedule subject to the limitations mentioned in Part II thereof.

By-taws of the bank.

72. The provisions contained in the Second Schedule shall be the by-laws of the bank in regard to the matters to which they relate.

Applications to the Minister.

***74.** All applications to the Minister by the board for his approval or sanction for any matter or thing for which the Minister's approval or sanction is by this Ordinance required, shall be made in writing signed by the officer or person authorized in that behalf by the board.

Interpretation.

+76. In this Ordinance (including the Schedules), unless the context otherwise requires—

[§ 28, Law 10 of 1974.]

" approved societym means a society approved for the purposes of this Ordinance by the Minister by Order published in the Gazette;

"bank" means the Bank of Ceylon established by this Ordinance;

" board" means a duly convened and constituted meeting of the directors of the bank for the time being;

" capital" means the capital for the time being of the bank ;

[§ 28, Law 10 of 1974.]

" central office " means the central office of the bank;

" director " means a person holding the office of a director of the bank;

" Government" means the Government of Sri Lanka;

" mortgage " includes any charge on property for securing money or money's worth; [§ 28, Law 10 of 1974-]

" officer " means an employee of the bank and shall not be construed to, include a director or an auditor of the bank;

" Secretary to the Treasury " means the person for the time being performing the functions of the Secretary to the Treasury of the Government;

" substantial interest "—

[§ 28, Law 10 of 1974.]

(a) in relation to a company, means the holding of a beneficial interest by an individual or his spouse or minor child, whether singly or taken together, in the shares thereof, the amount paid up of which exceeds five hundred thousand rupees or five *per centum* of the paid-up capital of the company, whichever is less ; and

(b) in relation to a firm, means the beneficial interest held therein by an individual or his spouse or minor child, whether singly or taken together, which represents more than five *per centum* of the total capital subscribed by all the partners of the said firm.

FIRST SCHEDULE

[Section 71.]

PART I

1. The bank is authorized to carry on and transact the several kinds of business hereinafter specified. namely:—

Business which the bank is authorized to carry on and transact.

(a) To establish, carry on, develop and extend in Sri Lanka and elsewhere the business of banking in all its branches and departments and in particular and without prejudice to the generality of the foregoing to exercise, perform and do all or any of the following powers, acts and things subject nevertheless to the restrictions and conditions set out in Part II of this Schedule.

To cany on business of banking.

* Section 73 is repealed by Law No. 10 of 1974.

t Section 75 is repealed by Law No. 10 of 1974.

To open accounts.	(b) (i) To open, maintain and manage current deposit, saving and other accounts ;
To discount bills.	(ii) to discount, buy, sell and deal in bills of exchange, promissory notes, <i>hoondies</i> , <i>puorjax</i> , coupons, drafts, bills of lading, warrants, debentures, certificates, scrip and other instruments and securities, whether transferable or negotiable or not;
To issue letters of credit.	(iii) to grant and issue letters of credit and circular notes;
To deal in bullion and specie.	(iv) to buy, sell and deal in bullion and specie and engage in operations in exchange ;
To negotiate loans.	(v) to negotiate loans and advances, to receive money securities and valuables on deposit, or for safe custody, or otherwise;
To collect money.	(vi) to collect and transmit money and securities.
To transact agency business.	(c) To manage property and transact all kinds of agency business commonly transacted by bankers.
To borrow or raise money,	(d) To borrow or raise money in such manner as the bank shall think fit, and to secure the repayment of any money borrowed, raised or owing by mortgage, charge or lien upon the whole or any part of the bank's property or assets whether present or future including its uncalled capital and also by a similar mortgage, charge or lien to secure and guarantee the performance by the bank of any obligation or liability it may undertake.
To lend and advance money.	(e) To lend and advance money securities and property or give credit to such persons, firms or companies and on such terms as may seem expedient and either with or without security and if with security upon such security and with such conditions as may from time to time be deemed to be advisable.
To buy and sell stocks and shares. [§ 30, Law 10 of 1974.]	(f) To buy, sell, invest, underwrite, deal in and dispose of stocks, shares, debentures, mortgages, bonds, or securities issued or guaranteed by the Government of Sri Lanka or by the Government of any other country or by any company or corporation ; Provided, however, that the bank shall not enter into any transaction affecting the stocks, shares, debentures, mortgages, bonds or securities issued or guaranteed by any other country or by any such company or corporation except with the approval of not less than four directors of the bank given after considering the written observations of the general manager of the bank, and with the written consent of the Minister.
To acquire any other business. [§ 30, Law 10 of 1974.]	(g) To acquire and undertake the whole or any part of the banking and discount business of any person or company carrying on business which the bank is authorized to carry on : Provided, however, that the power contained in this paragraph shall only be exercised with the approval of not less than four directors of the bank given after considering the written observations of the general manager of the bank, and with the written consent of the Minister.
To acquire property. [§ 30, Law 10 of 1974.]	(h) To purchase, take on lease or in exchange, hire or otherwise acquire, any immovable or movable property and any rights or privileges.
To enter into arrangement for profit sharing. [§ 30, Law 10 of 1974.]	(i) To enter into any arrangement for sharing profits, union of interest, co-operation. Joint adventure, reciprocal concession or otherwise with any person or company carrying on or engaged in or about to carry on or engaged in any business or transaction.
To act as trustees, executors, Ac.	(j) To undertake and execute any trusts the undertaking whereof may seem desirable, and also to undertake the office of executor, administrator, receiver, treasurer, or registrar, and to keep for any company, Government, authority, or body, any register relating to any stocks, funds, shares or securities, or to undertake any duties in relation to the registration of transfers, the issue of certificates, or otherwise.
To provide for employees,	(k) To establish and support or aid in the establishment and support of associations, institutions, trusts, schemes for the providing of pensions and of guarantee and other funds, and conveniences calculated to benefit employees or ex-employees of the bank or the dependants or connexions of such persons and to grant pensions and allowances, and to make payments towards insurance, and to subscribe or guarantee money for charitable or benevolent objects or for any exhibition or for any public, general, or useful object.

- (l) To sell or dispose of the entire undertaking of the bank, or any part thereof, for such consideration as the bank may think fit, and in particular for shares, debentures or securities of any other bank or to amalgamate the bank's business with that of any other bank; To sell undertaking. [§ 30, Law 10 of 1974.]
- Provided, however, that the powers contained in this paragraph shall only be exercised with the approval of at least four directors of the bank given after considering the written observations of the general manager of the bank, and with the written consent of the Minister. [§ 30, Law 10 of 1974.]
- (m) To construct buildings on or improve or develop any land belonging to or taken on lease or possessed or occupied by the bank and to manage, exchange, lease, mortgage, dispose of, sell, turn to account or otherwise deal with all or any part of the property and rights of the bank. To deal with the property of the bank. [§ 30, Law 10 of 1974.]
- (n) To do all or any of the above things in any part of the world and as principals, agents, contractors, trustees or otherwise and by or through trustees, agents or otherwise and either alone or in conjunction with others, To exercise its powers in any part of the world.
- (o) To take or concur in taking all such steps and proceedings as may seem best calculated to uphold and support the credit of the bank and to obtain and justify public confidence and to avert and minimize financial disturbances which might affect the bank. To support the credit of the bank.
- (p) To procure the bank to be registered or recognized in any foreign country or place. To procure recognition of the bank. [§ 30, Law 10 of 1974.]
- (q) To give any guarantee or indemnity and to enter into any arrangements with any Government or any local authority in order to obtain any rights, concessions and privileges, To obtain concessions. [§ 30, Law 10 of 1974.]
- (r) To do hire-purchase business and receive discounts, commissions and other remuneration. To do hire-purchase business. [§ 30, Law 10 of 1974.]
- (s) To form any company for carrying on any business, to acquire and undertake the business of, purchase any interest in, or acquire or hold shares or stock in, any company carrying on any business, To form companies. [§ 30, Law 10 of 1974.]
- (t) To carry on such other trade or business or engage in such other activity, which can in the opinion of the bank be advantageously carried on or engaged in by the bank. To carry on any trade or business. [§ 30, Law 10 of 1974.]
- (u) To do all things incidental or conducive to the attainment of the above objects or the exercise of the above powers. General. [§ 30, Law 10 of 1974.]

2. The objects set forth in any paragraph of clause 1 of this Schedule shall not, except where the context expressly so requires, be in any wise limited or restricted by reference to or inference from the terms of any other paragraph or the objects therein specified, and the powers thereby conferred shall not be deemed merely subsidiary or auxiliary to the objects mentioned in the first paragraph of clause 1 of this Schedule but the bank shall, except when the context expressly requires otherwise, have full power to exercise all or any of the powers conferred by any part of clause 1 of this Schedule in any part of the world. Interpretation of objects.

PART II

3. The business of the bank shall be carried on subject to the following restrictions and qualifications Restrictions and qualifications.
- (a) No loan, overdraft, advance or other accommodation shall be granted by the bank to any person unless the board is satisfied that he is worthy of credit up to the amount of such advance, loan or other accommodation or that such amount is secured by adequate security, or that the project or scheme to which such amount is to be applied is financially sound : Loans, overdrafts, advances and other accommodation to be granted only in certain circumstances. [§ 30, Law 10 of 1974.]
- Provided that the bank may grant any loan, overdraft, advance or other accommodation to any Government department, corporation, statutory body, local authority, co-operative society, approved society or unincorporate body of persons which is unable to satisfy the board as to the requirement contained in the preceding provisions of this paragraph if the grant of such loan, overdraft, advance or other accommodation is approved by the Minister in consultation with the Minister in charge of the subject of Finance and if the Minister in charge of the subject of Finance guarantees under section 10 the repayment of such advance, loan or other accommodation. [§ 30, Law 10 of 1974.]

Loans to directors and companies. [§ 30, Law 10 of 1974.]

(b) (i) Where prior to the date of his appointment as a director no sum has been granted by way of loan, overdraft, advance or other accommodation to such director or any company or firm in which he has a substantial interest, then, no loan, overdraft, advance, or other accommodation shall be granted to any such company or firm, but a sum not exceeding fifty thousand rupees in the aggregate may be granted to such director by way of loans, overdrafts, advances and other accommodation.

(ii) Where prior to the date of his appointment as a director any sum has been granted by way of loan, overdraft, advance or other accommodation to such director or any company or firm in which he has a substantial interest, then, such director, company or firm may be granted by way of loans, overdrafts, advances or other accommodation a sum which does not exceed the aggregate of the sums granted to such director, company or firm prior to the date of such appointment, less any sum remaining unpaid :

Provided that where any sum so granted to a director prior to his appointment as a director is a sum not exceeding fifty thousand rupees such director may be granted by way of loans, advances, overdrafts and other accommodation a sum not exceeding fifty thousand rupees in the aggregate, in addition to any sum remaining unpaid.

(iii) No loan, overdraft, advance or other accommodation shall be granted to a director for the time being of the bank or a firm, or company in which he has a substantial interest unless security approved by the bank is given and the loan, overdraft, advance or other accommodation is sanctioned at a meeting of the board by not less than four other directors.

Restriction on granting of loans, &c.

*(e) No advance, loan or accommodation shall be granted to any general manager, assistant general manager, or branch manager, or any officer, clerk, or servant of the bank exceeding the sum of five hundred rupees except against appropriate banking security; any loans exceeding five hundred rupees to such persons shall only be granted with the previous approval of the board.

Guarantee by employees. [§ 30, Law 10 of 1974.]

(f) No loan, overdraft, advance or other accommodation shall be granted by the bank on the guarantee of an employee of the bank other than to another employee of the bank.

How may powers be construed.

4. All the powers contained in clauses 1 and 2 of this Schedule shall be read and construed subbed to the restrictions and qualifications in clause 3 of this Schedule and in case of conflict or inconsistency the provisions of clause 3 of this Schedule shall prevail.

[Section 72.]

SECOND SCHEDULE

[§ 30, Law 10 of 1974.]

PART I

PROCEEDINGS OF DIRECTORS

Meetings of directors.

1. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit and may determine the quorum necessary for the transaction of business. Until otherwise fixed the quorum shall be three.

Who may preside at meetings.

2. The board shall be presided over by the chairman if present, or in his absence, by the deputy chairman, if any; but if neither a chairman nor a deputy chairman shall have been appointed, or if neither the chairman nor the deputy chairman be present at the time fixed for holding the meeting of the board, the directors present shall choose one of their number to preside.

How questions at board meetings decided.

3. Any questions which shall arise at any meeting of the board shall be decided by a majority of votes of those present, and in the case of an equality of votes the director presiding at the meeting shall have a second or casting vote.

Acts to be valid notwithstanding defects in appointments.

4. All acts done by the board or by a committee of directors or by a person acting as director, whether solely or as a member of the board or of a committee, shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of the board, committee, or person acting as director, or that such person was not qualified to be a director, be as valid as if there had been no such defect and the person acting as director had been duly qualified.

Meetings of committees.

5. The meetings and proceedings of any committee shall be governed by the provisions of this Schedule for regulating the meetings and proceedings of directors, so far as the same are applicable thereto, and are not superseded by the express terms of the appointment of the committee. In any matter in which no provisions are made by the board or by this Schedule a committee may conduct its business in such manner as it thinks fit.

* Paragraphs (c), (rf) and (g) are omitted—See section 2 of Act No. 34 of 1968.

6. (1) The board shall cause minutes to be made in books provided for the purpose of the following matters. namely:—

Minutes of proceedings of directors to be kept.

- (a) all appointments of officers and committees made by the board;
- (b) the name of the directors present at every meeting of the board, and at every meeting of a committee ;
- (c) the proceedings and resolutions of all meetings of the board and committees.

[§ 30, Law 10 of 1974.]

(2) Such minutes if signed by some person purporting to be the chairman of the meeting or of the board or committee to which it refers, or by any two directors present thereat, or by the chairman of the next succeeding meeting, shall be receivable in evidence without further proof of the matters therein contained or any other proof.

7. (1) The board shall provide a common seal for the purposes of the bank and may from time to time change the same; and such seal may be kept by such person and in such manner as the board from time to time may determine, but shall not be used except by the authority of the board and in the presence of at least two directors, or of one director and the general manager or other officer appointed for that purpose by the board, who shall sign the document to which the seal is affixed.

Custody and use of common seal.

(2) The board shall have full power to use the common seal in the execution of all or any of the powers hereby vested in them, or otherwise in relation to the affairs and business of the bank as they in their discretion see fit.

8. No director shall be disqualified by his office from contracting with the bank nor shall any such contract entered into by or on behalf of the bank in which any director shall be in any way interested, be voided, nor shall any director so contracting or being interested be liable to account to the bank for any profit realized by or arising out of any such contract but the fact of his being interested and the nature of his interest shall be disclosed by him at the meeting of the directors at which the contract is considered if his interest then exists, or in any other case at the first meeting of the directors after the acquisition of his interest.

Directors may contract with bank.

A general notice that a director is a member of a specified firm or company, and is to be regarded as interested in any subsequent transactions with such firm or company, shall be sufficient disclosure under this by-law, and after such general notice it shall not be necessary to give any special notice relating to any particular transaction with such firm or company.

9. No director shall as a director vote in respect of any contract in which he is so interested as aforesaid and he shall withdraw from the meeting of the directors while any such contract is under consideration and the vote thereon is being taken. If any director does so vote, his vote shall not be counted.

When director may not vote.

10. Nothing in by-law 9 shall apply to any contract made by or on behalf of the bank to give to the directors or any of them any security for advances or by way of indemnity.

Exceptions from provisions of by-law 9. [§ 30, Law 10 of 1974.]

11. (1) The board may delegate any of its powers, other than the power to appoint the general manager, to committees consisting of two or more directors, or to a director, or to the general manager or to any other officer of the bank selected by the board ; and may from time to time revoke any such delegation either wholly or in part and either as to persons or purposes. Every such committee, director, general manager or other officer shall, in the exercise of the powers delegated to it or him, conform to all such regulations as are prescribed by the board.

Delegation of functions of board. [§ 30, Law 10 of 1974.]

(2) The general manager may, with the consent of the board, in writing delegate to any of the officers of the bank selected by him any of the powers delegated to him under paragraph (1). Every such officer shall in the exercise of the powers delegated to him under this paragraph conform to all such regulations as are prescribed by the board and the general manager.

(3) All acts done by any such committee, director, general manager or other officer in conformity with such regulations and in fulfilment of the purposes of its or his appointment, but not otherwise, shall have the like force and effect as if done by the board.

PART II

[§ 30, Law 10 of 1974.]

POWERS AND DUTIES OF DIRECTORS

12. No loan, overdraft, advance or other accommodation shall be sanctioned by the board without the recommendation of the general manager unless such loan, overdraft, advance or other accommodation is approved by all the directors for the time being of the bank, after considering the written observations of the general manager of the bank.

Credits and loans. [§ 30, Law 10 of 1974.]

Resolution without board meeting valid. 13. (1) A resolution signed by all the directors of the bank for the time being shall be as valid and effectual as if it had been passed at a meeting of the board.

(2) Any such resolution shall be recorded in the minutes book containing the proceedings of the board as if it had been passed at a meeting of the board.

[§ 30, Law 10 of 1974.]

PART III

REMUNERATION OF DIRECTORS

Remuneration of directors. [§ 30, Law 10 of 1974.] 14. A director may be remunerated out of the funds of the bank in such manner and at such rates as the Minister may determine.

Deduction for absence from meeting. 15. A sum of fifty rupees shall be deducted from the remuneration of the chairman or any director in respect of each meeting of the board which he fails to attend.

Remuneration of acting director. 16. A director in whose place a person has been appointed to act shall not receive the remuneration attached to his office during the continuance of such acting appointment, but such remuneration shall be paid to the person acting in his place.

Remuneration of directors for special services. [§ 30, Law 10 of 1974.] 17. Where any director is entrusted with any special mission of function or by request performs special services on behalf of the bank, the board may grant him such additional remuneration as it thinks fit. The directors may be repaid by the bank all such reasonable travelling, hotel and incidental expenses as they may incur in attending meetings of the board or of committees of the board or which they may otherwise incur in or about the business of the bank.

Remuneration of public officers who are directors to be paid to Consolidated Fund. [§ 30, Law 10 of 1974.] 18. All remuneration to which directors who are public officers become entitled shall be paid to the Consolidated Fund.

[§ 30, Law 10 of 1974.)

PART IV

DIVIDENDS AND RESERVE

Half-yearly dividends. [§ 30, Law 10 of 1974.] 19. The board may—
(i) on the report of the general manager that the profits earned by the bank during any half-year justifies the payment of a half-yearly dividend ; and
(ii) with the approval of the Minister,
declare a half-yearly dividend.

Investment of reserve fund. [§ 30, Law 10 of 1974.] 20. Any amounts standing to the credit of any reserve funds and also any other funds of the bank not for the time being employed in or required for the purposes of the business of the bank shall be invested with the approval of the Minister in stock, shares, debentures, bonds or securities—

(a) recommended in writing by the general manager and approved at a meeting of the board by a majority of not less than two directors ; or

(b) unanimously approved by all the directors for the time being of the bank after considering the written observations of the general manager of the bank.

BANK OF CEYLON

[Cap. 302

THIRD SCHEDULE

[§31, Law 10 of 1974.]

FORM A

[Section 28.]

FORM OF CERTIFICATE OF SALE WHERE THE BANK IS NOT THE PURCHASER

Whereas a sum of..... rupees is due to the Bank of Ceylon from and the property ... hereinafter more fully described has been 'mortgaged by the said on* bond No. dated as security for the payment of the aforesaid sum in the manner provided in the said* bond i

*Alter whenever necessary.

And whereas the moneys due in respect of the said* bond have not been paid by or on behalf of the said

And whereas the aforesaid property was sold in conformity with the Bank of Ceylon Ordinance on the . day of and the same was purchased by of for the sum of..... rupees, which has been duly paid by the said

Now Know Ye that the Bank of Ceylon by virtue and in the exercise of the powers in the said Bank vested in this behalf by or under the Ordinance aforesaid, doth hereby certify that the following property, to wit (*here insert full and accurate description of property*) has been sold and purchased by the said for the sum of rupees, which he has duly paid, and that the said property shall henceforward be vested in the said his heirs, executors, administrators and assigns.

Given under the Common Seal of the Bank of Ceylon this day of.....19.....

The Common Seal of the withinnamed Bank of Ceylon is hereto affixed in the presence of

(SEAL)

of the said Bank of Ceylon who do hereby attest the sealing thereof.

Witnesses:

(Not to be notariaty attested)

FORM B

[Section 28.]

FORM OF CERTIFICATE OF SALE WHERE THE BANK IS THE PURCHASER

Whereas a sum of..... rupees is due to the Bank of Ceylon from and the property ... hereinafter more fully described has been 'mortgaged by the said on* bond No. dated as security for the payment of the aforesaid sum in the manner provided in the said* bond :

*Alter whenever necessary.

And whereas the moneys due in respect of the said* bond have not been paid by or on behalf of the said

And whereas the aforesaid property was sold in conformity with the Bank of Ceylon Ordinance on the day of and the same was purchased for and on behalf of the Bank of Ceylon by for the sum of rupees, which has been duly credited to the said Bank, in part (*or full, as the case may be*) satisfaction of the sum due as aforesaid :

Now Know Ye that the Bank of Ceylon by virtue and in the exercise of the powers in the said Bank vested in this behalf by or under the Ordinance aforesaid, doth hereby certify that the following property, to wit, (*here insert full and accurate description of the property*) has been sold and purchased by the said for and on behalf of the said Bank of Ceylon for the sum of rupees, and that the said property shall henceforward be absolutely vested in the said Bank of Ceylon.

Given under the Common Seal of the Bank of Ceylon this day of.....19.....

The Common Seal of the withinnamed Bank of Ceylon is hereto affixed in the presence of

(SEAL)

of the said Bank of Ceylon who do hereby attest the sealing thereof.

Witnesses:

(Not 10 be notarially attested)

CHAPTER 92
BILLS OF EXCHANGE

Ordinances
Nos. 25 of 1927,
30 of 1930,
Acts
Nos. 5 of 1955,
25 of 1957,
30 of 1961.

AN ORDINANCE TO DECLARE THE LAW RELATING TO BILLS OF EXCHANGE, CHEQUES,
BANKERS' DRAFTS. AND PROMISSORY NOTES.

[1st March, 1928.]

PART I

PRELIMINARY

Short title. **1.** This Ordinance may be cited as the Bills of Exchange Ordinance.

Interpretation. **2.** In this Ordinance, unless the context otherwise requires—

" acceptance " means an acceptance completed by delivery or notification;

" action " includes a claim in reconvention and set-off;

"banker" includes a body of persons, whether incorporated or not, who carry on the business of banking;

" bank holiday " means a day appointed to be a bank holiday by or under the powers contained in any enactment for the time being in force;

" bankrupt " includes any person whose estate is vested in a trustee or assignee under the law for the time being in force relating to insolvency or bankruptcy;

" bearer " means the person in possession of a bill or note which is payable to bearer;

" bill " means bill of exchange, and
" note " means promissory note;

" delivery " means transfer of possession, actual or constructive, from one person to another;

" holder " means the payee or indorsee of a bill or note who is in possession of it, or the bearer thereof;

" indorsement " means an indorsement completed by delivery;

" issue " means the first delivery of a bill or note, complete in form, to a person who takes it as a holder;

" value " means valuable consideration ;

" written " includes printed, and
" writing " includes print.

PART II

BILLS OF EXCHANGE

FORM AND INTERPRETATION

3. (1) A bill of exchange is an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a sum certain in money to or to the order of a specified person, or to bearer. Bill of exchange defined.

(2) An instrument which does not comply with these conditions, or which orders any act to be done in addition to the payment of money, is not a bill of exchange.

(3) An order to pay out of a particular fund is not unconditional within the meaning of this section ; but an unqualified order to pay, coupled with (a) an indication of a particular fund out of which the drawee is to reimburse himself or a particular Particular fund.

account to be debited with the amount, or (b) a statement of the transaction which gives rise to the bill, is unconditional.

Date, place, and value.

- (4) A bill is not invalid by reason—
- (a) that it is not dated ;
 - (b) that it does not specify the value given, or that any value has been given therefor ;
 - (c) that it does not specify the place where it is drawn or the place where it is payable.

Inland and foreign bills.

4. (1) An inland bill is a bill which is, or on the face of it purports to be—

- (a) both drawn and payable within Sri Lanka, or
- (b) drawn within Sri Lanka upon some person resident therein.

Any other bill is a foreign bill.

(2) Unless the contrary appear on the face of the bill the holder may treat it as an inland bill.

Effect where different parties to bill are the same person.

5. (1) A bill may be drawn payable to, or to the order of, the drawer ; or it may be drawn payable to, or to the order of, the drawee.

Drawer and drawee same person or firm.

(2) Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or as a promissory note.

Address to drawee.

6. (1) The drawee must be named or otherwise indicated in a bill with reasonable certainty.

(2) A bill may be addressed to two or more drawees whether they are partners or not, but an order addressed to two drawees in the alternative, or to two or more drawees in succession, is not a bill of exchange.

Certainty required as to payee.

7. (1) Where a bill is not payable to bearer, the payee must be named or otherwise indicated therein with reasonable certainty.

(2) A bill may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or

one or some of several payees. A bill may also be made payable to the holder of an office for the time being.

(3) Where the payee is a fictitious or non-existing person the bill may be treated as payable to bearer.

8. (1) When a 'bill' contains words prohibiting transfer, or indicating an intention that it should not be transferable, it is valid as between the parties thereto, but is not negotiable.

(2) A negotiable bill may be payable either to order or to bearer.

(3) A bill is payable to bearer which is expressed to be so payable, or on which the only or last indorsement is an indorsement in blank.

(4) A bill is payable to order which is expressed to be so payable, or which is expressed to be payable to a particular person, and does not contain words prohibiting transfer or indicating an intention that it should not be transferable.

(5) Where a bill, either originally or by indorsement, is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order at his option.

9. (1) The sum payable by a bill is a sum certain within the meaning of this Ordinance, although it is required to be paid—

- (a) with interest;
- (b) by stated instalments ;
- (c) by stated instalments, with a provision that upon default in payment of any instalment the whole shall become due ;
- (d) according to an indicated rate of exchange, or according to a rate of exchange to be ascertained as directed by the bill.

(2) Where the sum payable is expressed in words and also in figures, and there is a discrepancy between the two, the sum denoted by the words is the amount payable.

(3) Where a bill is expressed to be payable with interest, unless the instrument

otherwise provides, interest runs from the date of the bill, and if the bill is undated, from the issue thereof.

(4) Where a bill is expressed to be payable with interest, unless the instrument otherwise provides, the interest shall be at the rate of *mneper centum* per annum :

Provided that the amount recoverable on account of interest or arrears of interest shall in no case exceed the principal.

Bill payable on demand.

- 10.** (1) A bill is payable on demand—
- (a) which is expressed to be payable on demand, or at sight, or on presentation ; or
 - (b) in which no time for payment is expressed.

(2) Where a bill is accepted or indorsed when it is overdue, it shall, as regards the acceptor who so accepts, or any indorser who so indorses it, be deemed a bill payable on demand.

Bill payable at a future time.

11. (1) A bill is payable at a determinable future time within the meaning of this Ordinance which is expressed to be payable—

- (a) at a fixed period after date or sight ;
- (b) on or at a fixed period after the occurrence of a specified event which is certain to happen, though the time of happening may be uncertain.

(2) An instrument expressed to be payable on a contingency is not a bill, and the happening of the event does not cure the defect.

Omission of date in bill payable after date, or acceptance aftersight.

12. Where a bill expressed to be payable at a fixed period after date is issued undated, or where the acceptance of a bill payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the bill shall be payable accordingly :

Provided that—

- (i) where the holder in good faith and by mistake inserts a wrong date, and
- (ii) in every case where a wrong date is inserted, if the bill subsequently comes into the hands of a holder in due course the bill shall not be avoided thereby, but shall operate and be payable as if the date so inserted had been the true date.

13. (1) Where a bill or an acceptance or any indorsement on a bill is dated, the date shall, unless the contrary be proved, be deemed to be the true date of the drawing, acceptance, or indorsement, as the case may be. Presumption as to date being true date.

(2) A bill is not invalid by reason only that it is antedated or postdated, or that it bears date on a Sunday.

14. Where a bill is not payable on demand, the day on which it falls due is determined as follows :— Computation of time of payment.

- (1) Three days, called days of grace, are, in every case where the bill itself does not otherwise provide, added to the time of payment as fixed by the bill, and the bill is due and payable on the last day of grace :

* Provided that—

- (a) when the last day of grace falls on a day appointed to be a public holiday by or under any law for the time being in force, the bill is, except in the case hereinafter provided for, due and payable on the preceding business day ;
 - (b) when the last day of grace is a bank holiday, or when the last day of grace is a Sunday and the second day of grace is a bank holiday, the bill is due and payable on the succeeding business day.
- (2) Where a bill is payable at a fixed period after date, after sight, or after the happening of a specified event, the time of payment is

* The changes made to the proviso to section 14 (1) have been necessitated by the provisions of section 3 of the Holidays Act (No. 29 of 1971) — reproduced in this Edition as Chapter 364 — which materially differs from the now repealed Holidays Ordinance. No. 1 of 1928, reproduced as Chapter 135 in Volume III of the 1938 Edition of the Legislative Enactments.

determined by excluding the day from which the time is to begin to run and by including the day of payment.

(3) Where a bill is payable at a fixed period after sight, the time begins to run from the date of the acceptance if the bill be accepted, and from the date of noting or protest if the bill be noted or protested for non-acceptance, or for non-delivery.

[§ 2, 30 of 1961.]

(4) The term "Shoes" or "month" in a bill means calendar month.

Case of need.

15. The drawer of a bill and any indorser may insert therein the name of a person to whom the holder may resort in case of need, that is to say, in case the bill is dishonoured by non-acceptance or non-payment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need or not, as he may think fit.

Special stipulations by drawer or indorser restricting liability.

16. The drawer of a bill and any indorser, may insert therein an express stipulation—

- (a) negating or limiting his own liability to the holder ;
- (b) waiving as regards himself some or all of the holder's duties.

Definition and requisites of acceptance.

17. (1) The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer.

(2) An acceptance is invalid unless it complies with the following conditions, namely :—

- (a) It must be written on the bill and be signed by the drawee. The mere signature of the drawee without additional words is sufficient.
- (b) It must not express that the drawee will perform his promise by any other means than the payment of money.

Time for acceptance.

18. A bill may be accepted—

- (a) before it has been signed by the drawer, or while otherwise incomplete ;

(b) when it is overdue, or after it has been dishonoured by a previous refusal to accept, or by non-payment ;

(c) when a bill payable after sight is dishonoured by non-acceptance, and the drawee subsequently accepts it, the holder, in the absence of any different agreement, is entitled to have the bill accepted as of the date of first presentment to the drawee for acceptance.

19. (1) An acceptance is either—

- (a) general, or
- (b) qualified.

(2) A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn.

(3) In particular an acceptance is qualified which is—

- (a) conditional, that is to say, which makes payment by the acceptor dependent on the fulfilment of a condition therein stated ;
- (b) partial, that is to say, an acceptance to pay part only of the amount for which the bill is drawn ;
- (c) local, that is to say, an acceptance to pay only at a particular specified place ;
- (d) qualified as to time ;
- (e) the acceptance of some one or more of the drawees, but not of all.

(4) An acceptance to pay at a particular place is a general acceptance, unless it expressly states that the bill is to be paid there only, and not elsewhere.

20. (1) Where a simple signature on a blank stamped paper is delivered by the signer in order that it may be converted into a bill, it operates as a prima facie authority to fill it up as a complete bill for any amount the stamp will cover, using the signature for that of the drawer, or the acceptor, or an indorser ; and, in like manner, when a bill is wanting in any material particular, the person in

General and qualified acceptances.

inchoate instruments or blank signatures

possession of it has a prima facie authority to fill up the omission in any way he thinks fit.

(2) In order that any such instrument when completed may be enforceable against any person who became a party thereto prior to its completion, it must be filled up within a reasonable time, and strictly in accordance with the authority given. Reasonable time for this purpose is a question of fact;

Provided that if any such instrument after completion is negotiated to a holder in due course, it shall be valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up within a reasonable time and strictly in accordance with the authority given.

Delivery to complete contract.

21. (1) Every contract on a bill, whether it be the drawer's, the acceptor's, or an indorser's, is incomplete and revocable until delivery of the instrument in order to give effect thereto ;

Provided that where an acceptance is written on a bill. and the drawee gives notice to or according to the directions of the person entitled to the bill that he has accepted it, the acceptance then becomes complete and irrevocable.

(2) As between immediate parties, and as regards a remote party other than a holder in due course, the delivery—

- (a) in order to be effectual must be made either by or under the authority of the party drawing, accepting, or indorsing, as the case may be ;
- (b) may be shown to have been conditional or for a special purpose only, and not for the purpose of transferring the property in the bill.

But if the bill be in the hands of a holder in due course a valid delivery of the bill by all parties prior to him so as to make them liable to him is conclusively presumed.

(3) Where a bill is no longer in the possession of a party who has signed it as drawer, acceptor, or indorser, a valid and unconditional delivery by him is presumed until the contrary is proved.

CAPACITY AND AUTHORITY OF PARTIES

22. (1) Capacity to incur liability as a Capacity of party to a bill is coextensive with capacity to Parties. contract.

(2) Where such capacity is to be determined by the law of Sri Lanka, it shall be determined by Roman-Dutch law as administered in Sri Lanka subject to the provisions of any enactment affecting that law.

(3) Provided that nothing in this section shall enable a corporation to make itself liable as drawer, acceptor, or indorser of a bill, unless it is competent to it so to do under the law for the time being in force relating to corporations.

(4) Where a bill is drawn or indorsed by a minor or corporation having no capacity or power to incur liability on a bill, the drawing or indorsement entitles the holder to receive payment of the bill, and to enforce it against any other party thereto.

23. No person is liable as drawer, indorser, or acceptor of a bill who has not signed it as such :

Signature essential to liability.

Provided that—

- (a) where a person signs a bill in a trade or assumed name, he is liable thereon as if he had signed it in his own name ;
- (b) the signature of the name of a firm is equivalent to the signature by the person so signing of the names of all persons liable as partners in that firm.

24. Subject to the provisions of this Forged or Ordinance, where a signature on a bill is "unauthorized" forged or placed thereon without the signature authority of the person whose signature it purports to be, the forged or unauthorized signature is wholly inoperative, and no right to retain the bill or to give a discharge therefor or to enforce payment thereof against any party thereto can be acquired through or under that signature, unless the party against whom it is sought to retain or enforce payment of the bill is precluded from setting up the forgery or want of authority :

Provided that nothing in this section shall affect the ratification of an unauthorized signature not amounting to a forgery.

receiving value therefor, and for the purpose of lending his name to some other person.

Procurator signatures.

25. A signature by procurator operates as notice that the agent has but a limited authority to sign, and the principal is only bound by such signature if the agent in so signing was acting within the actual limits of his authority.

(2) An accommodation party is liable on the bill to a holder for value; and it is immaterial whether, when such holder took the bill, he knew such party to be an accommodation party or not.

Persons signing as agent or in representative capacity.

26. (1) Where a person signs a bill as drawer, indorser, or acceptor, and adds words to his signature, indicating that he signs for or on behalf of a principal, or in a representative character, he is not personally liable thereon; but the mere addition to his signature of words describing him as an agent, or as filling a representative character, does not exempt him from personal liability.

29. (1) A holder in due course is a holder who has taken a bill, complete and regular on the face of it, under the following conditions, namely:—

- (a) that he became the holder of it before it was overdue, and without notice that it had been previously dishonoured, if such was the fact;
- (b) that he took the bill in good faith and for value, and that at the time the bill was negotiated to him he had no notice of any defect in the title of the person who negotiated it,

(2) In determining whether a signature on a bill is that of the principal or that of the agent by whose hand it is written, the construction most favourable to the validity of the instrument shall be adopted.

(2) In particular the title of a person who negotiates a bill is defective within the meaning of this Ordinance when he obtained the bill, or the acceptance thereof, by fraud, duress, or force and fear, or other unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to a fraud.

THE CONSIDERATION FOR A BILL

Value defined.

27. (1) Valuable consideration for a bill may be constituted by—

- (a) any consideration which by the law of England is sufficient to support a simple contract;
- (b) an antecedent debt or liability. Such a debt or liability is deemed valuable consideration whether the bill is payable on demand or at a future time.

(2) Where value has at any time been given for a bill, the holder is deemed to be a holder for value as regards the acceptor and all parties to the bill who became parties prior to such time.

(3) Where the holder of a bill has a lien on it, arising either from contract or by implication of law, he is deemed to be a holder for value to the extent of the sum for which he has a lien.

(3) A holder (whether for value or not) who derives his title to a bill through a holder in due course, and who is not himself a party to any fraud or illegality affecting it, has all the rights of that holder in due course as regards the acceptor and all parties to the bill prior to that holder.

30. (1) Every party whose signature appears on a bill is prima facie deemed to have become a party thereto for value. Presumption of value and good faith

(2) Every holder of a bill is prima facie deemed to be a holder in due course; but if in an action on a bill it is admitted or proved that the acceptance, issue, or subsequent negotiation of the bill is affected with fraud, duress, or force and fear, or illegality, the burden of proof is shifted, unless and until the holder proves that, subsequent to the alleged fraud or illegality, value has in good faith been given for the bill.

Accommodation bill or party,

28. (1) An accommodation party to a bill is a person who has signed a bill as drawer, acceptor, or indorser, without

NEGOTIATION OF BILLS

Negotiation defined,

31. (1) A bill is negotiated when it is transferred from one person to another in such a manner as to constitute the transferee the holder of the bill.

(2) A bill payable to bearer is negotiated by delivery.

(3) A bill payable to order is negotiated by the indorsement of the holder completed by delivery.

(4) Where the holder of a bill payable to his order transfers it for value without indorsing it, the transfer gives the transferee such title as the transferor had in the bill and the transferee in addition acquires the right to have the indorsement of the transferor.

(5) Where any person is under obligation to indorse a bill in a representative capacity, he may indorse the bill in such terms as to negative personal liability.

Requisites of a valid indorsement,

32. An indorsement in order to operate as a negotiation must comply with the following conditions, namely :—

(1) It must be written on the bill itself and be signed by the indorser. The simple signature of the indorser on the bill, without additional words, is sufficient.

An indorsement written on an allonge, or on a " copy " of a bill issued or negotiated in a country where " copies " are recognized, is deemed to be written on the bill itself,

(2) It must be an indorsement of the entire bill. A partial indorsement, that is to say, an indorsement which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the bill to two or more indorsees severally, does not operate as a negotiation of the bill.

(3) Where a bill is payable to the order of two or more payees or indorsees who are not partners all must indorse, unless the one indorsing has authority to indorse for the others.

(4) Where, in a bill payable to order, the payee or indorsee is wrongly designated, or his name is misspelt, he may indorse the bill as therein described, adding if he think fit, his proper signature.

(5) Where there are two or more indorsements on a bill, each indorsement is deemed to have been made in the order in which it appears on the bill until the contrary is proved.

(6) An indorsement may be made in blank or special. It may also contain terms making it restrictive.

33. Where a bill purports to be indorsed conditionally the condition may be disregarded by the payer, and payment to the indorsee is valid whether the condition has been fulfilled or not.

34. (1) An indorsement in blank specifies no indorsee, and a bill so indorsed becomes payable to bearer.

(2) A special indorsement specifies the person to whom, or to whose order, the bill is to be payable.

(3) The provisions of this Ordinance relating to a payee apply with the necessary modifications to an indorsee under a special indorsement.

(4) When a bill has been indorsed in blank, any holder may convert the blank indorsement into a special indorsement by writing above the indorsee's signature a direction to pay the bill to or to the order of himself or some other person.

35. (1) An indorsement is restrictive which prohibits the further negotiation of the bill, or which expresses that it is a mere authority to deal with the bill as thereby directed and not a transfer of the ownership thereof, as, for example, if a bill be indorsed—

Restrictive indorsement,

[§3.30 of 1961.]

" Pay D only " ;

or

" Pay D for the account of X " ;

or

"Pay D or order for collection".

(2) A restrictive indorsement gives the indorsee the right to receive payment of the bill and to sue any party thereto that his indorser could have sued, but gives him no power to transfer his rights as indorsee unless it expressly authorize him to do so.

(3) Where a restrictive indorsement authorizes further transfer, all subsequent indorsees take the bill with the same rights and subject to the same liabilities as the first indorsee under the restrictive indorsement.

How long bill continues negotiable.

36. (!) Where a bill is negotiable in its origin it continues to be negotiable until it has been—

- (a) restrictively indorsed, or
- (b) discharged by payment or otherwise,

(2) Where an overdue bill is negotiated, it can only be negotiated subject to any defect of title affecting it at its maturity, and thenceforward no person who takes it can acquire or give a better title than that which the person from whom he took it had.

(3) A bill payable on demand' is deemed to be overdue within the meaning and for the purposes of this section, when it appears on the face of it to have been in circulation for an unreasonable length of time. What is an unreasonable length of time, for this purpose is a question of fact.

(4) Except where an indorsement bears date after the maturity of the bill, every negotiation is prima facie deemed to have been effected before the bill was overdue.

(5) Where a bill which is not overdue has been dishonoured, any person who takes it with notice of the dishonour takes it subject to any defect of title attaching thereto at the time of dishonour, but nothing in this subsection shall affect the rights of a holder in due course.

Negotiation of bill to party already liable thereon.

37. Where a bill is negotiated back to the drawer, or to a prior indorser, or to the acceptor, such party may, subject to the provisions of this Ordinance, reissue and further negotiate the bill, but he is not

entitled to enforce payment of the bill against any intervening party to whom he was previously liable.

38. The rights and powers of the holder of a bill are as follows :— Rights of the holder-

- (a) he may sue on the bill in his own name;
- (b) where he is a holder in due course, he holds the bill free from any defect of title of prior parties, as well as from mere personal defences available to prior parties among themselves, and may enforce payment against all parties liable on the bill;
- (c) where his title is defective—
 - (i) if he negotiates the bill to a holder in due course, that holder obtains a good and complete title to the bill, and
 - (ii) if he obtains payment of the bill, the person who pays him in due course gets a valid discharge for the bill.

GENERAL DUTIES OF THE HOLDER

39. (1) Where a bill is payable after sight, presentment for acceptance is necessary in order to fix the maturity of the instrument. When presentment for acceptance is necessary.

(2) Where a bill expressly stipulates that it shall be presented for acceptance, or where a bill is drawn payable elsewhere than at the residence or place of business of the drawee, it must be presented for acceptance before it can be presented for payment.

(3) In no other case is presentment for acceptance necessary in order to render liable any party to the bill.

(4) Where the holder of a bill, drawn payable elsewhere than at the place of business or residence of the drawee, has not time, with the exercise of reasonable diligence, to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused, and does not discharge the drawer and indorsers.

Time for presenting bill payable after sight.

40. (1) Subject to the provisions of this Ordinance, when a bill payable after sight is negotiated, the holder must either present it for acceptance or negotiate it within a reasonable time.

(2) If he do not do so, the drawer and all indorsers prior to that holder are discharged.

(3) In determining what is a reasonable time within the meaning of this section, regard shall be had to the nature of the bill, the usage of the trade with respect to similar bills, and the facts of the particular case.

Rules regarding presentment for acceptance, and excuses for non-presentment.

41. (1) A bill is duly presented for acceptance which is presented in accordance with the following rules;—

- (a) the presentment must be made by or on behalf of the holder to the drawee or to some person authorized to accept or refuse acceptance on his behalf at a reasonable hour on a business day and before the bill is overdue ;
- (b) where a bill is addressed to two or more drawees, who are not partners, presentment must be made to them all, unless one has authority to accept for all, then presentment may be made to him only;
- (c) where the drawee is dead presentment may be made to his personal representative;
- (d) where the drawee is insolvent or bankrupt, presentment may be made to him or to his assignee or trustee;
- (e) where authorized by agreement or usage, a presentment through the post office is sufficient;
- (f) where the day on which a bill should be presented is a bank holiday, the bill shall be presented on the succeeding business day. *

(2) Presentment in accordance with these rules is excused and a bill may be treated as dishonoured by non-acceptance—

- (ff) where the drawee is dead, insolvent, or bankrupt, or is a fictitious

person or a person not having capacity to contract by bill;

- (b) where, after the exercise of reasonable diligence, such presentment cannot be effected ;
- (c) where, although the presentment has been irregular, acceptance has been refused on some other ground.

(3) The fact that the holder has reason to believe that the bill, on presentment, will be dishonoured does not excuse presentment.

42. (1) When a bill is duly presented for acceptance, and is not accepted within the customary time, the person presenting it must treat it as dishonoured by non-acceptance. If he do not, the holder shall lose his right of recourse against the drawer and indorsers.

Non-acceptance after customary time.

(2) Where the day on which a bill should be accepted is a bank holiday, the bill shall be accepted on the succeeding business day.

43. (1) A bill is dishonoured by non-acceptance—

Dishonour by non-acceptance and its consequences.

- (a) when it is duly presented for acceptance, and such an acceptance as is prescribed by this Ordinance is refused or cannot be obtained ; or
- (b) when presentment for acceptance is excused and the bill is not accepted.

(2) Subject to the provisions of this Ordinance, when a bill is dishonoured by non-acceptance, an immediate right of recourse against the drawer and indorsers accrues to the holder, and no presentment for payment is necessary,

44. (1) The holder of a bill may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance may treat the bill as dishonoured by non-acceptance.

Duties as to qualified acceptances.

(2) Where a qualified acceptance is taken, and the drawer or an indorser has not expressly or impliedly authorized the holder to take a qualified acceptance, or does not subsequently assent thereto, such drawer or indorser is discharged from his liability on the bill.

The provisions of this subsection do not apply to a partial acceptance, whereof due notice has been given. Where a foreign bill has been accepted as to part, it must be protested as to the balance,

(3) When the drawer or indorser of a bill receives notice of a qualified acceptance, and does not within a reasonable time express his dissent to the holder, he shall be deemed to have assented thereto.

Presentment for payment.

45. Subject to the provisions of this Ordinance a bill must be duly presented for payment. If it be not so presented the drawer and indorsers shall be discharged.

A bill is duly presented for payment which is presented in accordance with the following rules:—

- (1) Where the bill is not payable' on demand, presentment must be made on the day it falls due.
- (2) Where the bill is payable on demand, then, subject to the provisions of this Ordinance, presentment must be made within a reasonable time after its issue in order to render the drawer liable, and within a reasonable time ' after its indorsement, in order to render the indorser liable.

In determining what is a reasonable time, regard shall be had to the nature of the bill, the usage of trade with regard to similar bills, and the facts of the particular case.

- (3) Presentment must be made by the holder or by some person authorized to receive payment on his behalf at a reasonable hour on a business day, at the proper place as hereinafter defined, either to- the person designated by the bill as payer, or to some person authorized to pay or refuse payment on his behalf if with the exercise of reasonable diligence such person can there be found-
- (4) A bill is presented at the proper place—

- (a) where a place of payment is specified in the bill and the bill is there presented;
- (b) where no place of payment is specified, but the address of the drawee or acceptor is given in the bill, and the bill is there presented;
- (c) where no place of payment is specified, and no address given, and the bill is presented at the drawee's or acceptor's place of business, if known, and if not, at his ordinary residence if known;
- (d) in any other case, if presented to the drawee or acceptor, wherever he can be found, or if presented at his last known place of business or residence.

- (5) Where a bill is presented at the proper place, and after the exercise of reasonable diligence no person authorized to pay or refuse payment can be found there, no further presentment to the drawee or acceptor is required.
- (6) Where a bill is drawn upon or accepted by two or more persons who are not partners, and no place of payment is specified, presentment must be made to them all.
- (7) Where the drawee or acceptor of a bill is dead, and no place of payment is specified, presentment must be made to a personal representative, if such there be, and with the exercise of reasonable diligence he can be found.
- (8) Where authorized by agreement or usage a presentment through the post office is sufficient.

46. (1) Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate presentment must be made with reasonable diligence.

Excuses for delay or non-presentment for payment.

(2) Presentment for payment is dispensed with—

- (a) where, after the exercise of reasonable diligence, presentment, as required by this Ordinance, cannot be effected ;
- (b) where the drawee is a fictitious person;
- (c) as regards the drawer, where the drawee or acceptor is not bound, as between himself and the drawer, to accept or pay the bill, and the drawer has no reason to believe that the bill would be paid if presented ;
- (d) as regards an indorser, where the bill was accepted or made for the accommodation of that indorser, and he has no reason to expect that the bill would be paid if presented ;
- (e) by waiver of presentment, express or implied.

(3) The fact that the holder has reason to believe that the bill will, on presentment, be dishonoured, does not dispense with the necessity for presentment.

Dishonour by non-payment,

47. (1) A bill is dishonoured by non-payment—

- (a) when it is duly presented for payment and payment is refused or cannot be obtained, or
- (b) when presentment is excused and the bill is overdue and unpaid.

(2) Subject to the provisions of this Ordinance, when a bill is dishonoured by non-payment, an immediate right of recourse against the drawer and indorsers accrues to the holder.

Notice of dishonour and effect of non-notice.

48. Subject to the provisions of this Ordinance when a bill has been dishonoured by non-acceptance or by non-payment, notice of dishonour must be given to the drawer and each indorser, and any drawer or indorser to whom such notice is not given is discharged :

Provided that—

- (a) where a bill is dishonoured by non-acceptance, and notice of dishonour is not given, the rights of a holder in due course subsequently to the omission, shall not be prejudiced by the omission;
- (b) where a bill is dishonoured by non-acceptance and due notice of dishonour is given, it shall not be necessary to give notice of a subsequent dishonour by non-payment unless the bill shall in the meantime have been accepted.

49. Notice of dishonour in order to be valid and effectual must be given in accordance with the following rules:—

Rules as to notice of dishonour

- (1) The notice must be given by or on behalf of the holder, or by or on behalf of an indorser who, at the time of giving it, is himself liable on the bill.
- (2) Notice of dishonour may be given by an agent, either in his own name or in the name of any party entitled to give notice, whether that party be his principal or not.
- (3) Where the notice is given by or on behalf of the holder, it enures for the benefit of all subsequent holders and all prior indorsers who have a right of recourse against the party to whom it is given.
- (4) Where notice is given by or on behalf of an indorser entitled to give notice as hereinbefore provided, it enures for the benefit of the holder and all indorsers subsequent to the party to whom notice is given.
- (5) The notice may be given in writing or by personal communication, and may be given in any terms which sufficiently identify the bill, and intimate that the bill has been dishonoured by non-acceptance or non-payment. '••
- (6) The return of a dishonoured bill to the drawer or an indorser is, in point of form, deemed a sufficient notice of dishonour.

- (7) A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the bill shall not vitiate the notice unless the party to whom the notice is given is in fact misled thereby,
- (8) Where notice of dishonour is required to be given to any person, it may be given either to the party himself, or to his agent in that behalf.
- (9) When the drawer or indorser is dead, and the party giving notice knows it, the notice must be given to a personal representative if such there be and with the exercise of reasonable diligence he can be found.
- (10) Where the drawer or indorser is insolvent or bankrupt, notice may be given either to the party himself or to the assignee or trustee.
- (11) Where there are two or more drawers or indorsers who are not partners, notice must be given to each of them, unless one of them has authority to receive such notice for the others.
- (12) The notice may be given as soon as the bill is dishonoured, and must be given within a reasonable time thereafter.

be a post at a convenient hour on that day, and if there be no such post on that day then by the next post thereafter.

- (13) Where a bill when dishonoured is in the hands of an agent, he may either himself give notice to the panics liable on the bill or he may give notice to his principal. If he give notice to his principal, he must do so within the same time as if he were the holder, and the principal upon receipt of such notice has himself the same time for giving notice as if the agent had been an independent holder.
- (14) Where a party to a bill receives due notice of dishonour, he has after the receipt of such notice the same period of time for giving notice to antecedent parties that the holder has after the dishonour.
- (15) Where a notice of dishonour is duly addressed and posted, the sender is deemed to have given due notice of dishonour, notwithstanding any miscarriage by the post office.

In the absence of special circumstances notice is not deemed to have been given within a reasonable time, unless—

- (a) where the person giving and the person to receive notice reside in the same place, the notice is given or sent off in time to reach the latter on the day after the dishonour of the bill; y
- (b) where the person giving and the person to receive notice reside in different places, the notice is sent off on the day after the dishonour of the bill, if there

50. (1) Delay in giving notice of dishonour is excused where the delay is caused by circumstances beyond the control of the party giving notice, and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate the notice must be given with reasonable diligence.

(2) Notice of dishonour is dispensed with—

- (a) when, after the exercise of reasonable diligence, notice as required by this Ordinance cannot be given to or does not reach the drawer or indorser sought to be charged ;
- (b) by waiver express or implied. Notice of dishonour may be waived before the time of giving notice has arrived, or after the omission to give due notice;

- (c) as regards the drawer in the following cases, namely—
 - (i) where, drawer and drawee are the same person,
 - (ii) where the drawee is a fictitious person or a person not having capacity to contract,
 - (iii) where the drawer is the person to whom the bill is presented for payment,
 - (iv) where the drawee or acceptor is as between himself and the drawer under no obligation to accept or pay the bill,
 - (v) where the drawer has countermanded payment;
- (d) as regards the indorser in the following cases, namely—
 - (i) where the drawee is a fictitious person or a person not having capacity to contract, and the indorser was aware of the fact at the time he indorsed the bill,
 - (ii) where the indorser is the person to whom the bill is presented for payment,
 - (iii) where the bill was accepted or made for his accommodation.

a foreign bill, protest thereof in case of dishonour is unnecessary.

(3) A bill which has been protested for non-acceptance may be subsequently protested for non-payment.

(4) Subject to the provisions of this Ordinance, when a bill is noted or protested, it may be noted on the day of its dishonour and must be noted not later than the next succeeding business day. When a bill has been duly noted, the protest may be subsequently extended as of the date of the noting.

(5) Where the acceptor of a bill becomes bankrupt or insolvent or suspends payment before it matures, the holder may cause the bill to be protested for better security against the drawer and indorsers.

(6) A bill must be protested at the place where it is dishonoured :

Provided that—

(a) when a bill is presented through the post office, and returned by post dishonoured, it may be protested at the place to which it is returned and on the day of its return if received during business hours, and if not received during business hours, then not later than the next business day;

(b) when a bill drawn payable at the place of business or residence of some person other than the drawee has been dishonoured by non-acceptance, it must be protested for non-payment at the place where it is expressed to be payable, and no further presentment for payment to, or demand on, the drawee is necessary.

(7) A protest must contain a copy of the bill, and must be signed by the notary making it, and must specify—

(a) the person at whose request the bill is protested;

(b) the place and date of protest, the cause or reason for protesting the bill, the demand made, and the answer given, if any, or the fact that the drawee or acceptor could not be found.

Noting inland bill.

51. (1) Where an inland bill has been dishonoured it may, if the holder think fit, be noted for non-acceptance or non-payment, as the case may be; but it shall not be necessary to note or protest any such bill in order to preserve the recourse against the drawer or indorser.

(2) Where a foreign bill, appearing on the face of it to be such, has been dishonoured by non-acceptance it must be duly protested for non-acceptance, and where such a bill which has not been previously dishonoured by non-acceptance, is dishonoured by non-payment, it must be duly protested for non-payment. If it be not so protested the drawer and indorsers are discharged. Where a bill does not appear on the face of it to be

(8) Where a bill is lost or destroyed, or is wrongly detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof.

(9) Protest is dispensed with by any circumstance which would dispense with notice of dishonour. Delay in noting or protesting is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate the bill must be noted or protested with reasonable diligence.

Duties of holder as regards drawee or acceptor,

52. (1) When a bill is accepted generally presentment for payment is not necessary in order to render the acceptor liable.

(2) When by the terms of a qualified acceptance presentment for payment is required, the acceptor, in the absence of an express stipulation to that effect, is not discharged by the omission to present the bill for payment on the day that it matures.

(3) In order to render the acceptor of a bill liable it is not necessary to protest it, or that notice of dishonour should be given to him.

(4) Where the holder of a bill presents it for payment, he shall exhibit the bill to the person from whom he demands payment, and when a bill is paid the holder shall forthwith deliver it up to the party paying it.

LIABILITIES OF PARTIES

Funds in hands of drawee.

53. A bill, of itself, does not operate as an assignment of funds in the hands of the drawee available for the payment thereof, and the drawee of a bill who does not accept as required by this Ordinance is not liable on the instrument.

Liability of acceptor.

54. The acceptor of a bill, by accepting it-

- (1) engages that he will pay it according to the tenor of his acceptance ;
- (2) is precluded from denying to a holder in due course—

(a) the existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the bill;

(b) in the case of a bill payable to drawer's order, the then capacity of the drawer to indorse, but not the genuineness or validity of his indorsement;

(c) in the case of a bill payable to the order of a third person, the existence of the payee and his then capacity to indorse, but not the genuineness or validity of his indorsement.

55. (1) The drawer of a bill by drawing it— **Liability of drawer.**

(a) engages that on due presentment it shall be accepted and paid according to its tenor, and that if it be dishonoured he will compensate the holder or any indorser who is compelled to pay it, provided that the requisite proceedings on dishonour be duly taken;

(b) is precluded from denying to a holder in due course the existence of the payee and his then capacity to indorse.

(2) The indorser of a bill, by indorsing it-

(a) engages that on due presentment it shall be accepted and paid according to its tenor, and that if it be dishonoured he will compensate the holder or a subsequent indorser who is compelled to pay it, provided that the requisite proceedings on dishonour be duly taken; •

(b) is precluded from denying to a holder in due course the genuineness and regularity in all respects of the drawer's signature and all previous indorsements•

(c) is precluded from denying to his immediate or a subsequent indorsee that the bill was at the time of his indorsement a valid and subsisting bill, and that he had then a good title thereto.

Stranger signing bill liable as indorser.

56. Where a person signs a bill otherwise than as drawer or acceptor, he thereby incurs the liabilities of an indorser to a holder in due course.

Measure of damages against parties to dishonoured bill.

57. Where a bill is dishonoured, the measure of damages, which shall be deemed to be liquidated damages, shall be as follows:—

(1) The holder may recover from any party liable on the bill, and the drawer who has been compelled to pay the bill may recover from the acceptor, and an indorser who has been compelled to pay the bill may recover from the acceptor or from the drawer, or from a prior indorser—

- (a) the amount of the bill;
- (b) interest thereon from the time of presentment for payment if the bill is payable on demand, and from the maturity of the bill in any other case ;
- (c) the expenses of noting, or, when protest is necessary, and the protest has been extended, the expenses of protest.

(2) In the case of a bill which has been dishonoured abroad, in lieu of the above damages, the holder may recover from the drawer, or an indorser, and the drawer or an indorser who has been compelled to pay the bill may recover from any party liable to him the amount of the re-exchange with interest thereon until the time of payment.

(3) Where by this Ordinance interest may be recovered as damages, such interest may, if justice require it, be withheld wholly or in part, and where a bill is expressed to be payable with interest at a given rate, interest as damages may or may not be given at the same rate as interest proper.

58. (1) Where the holder of a bill Transferor by payable to bearer negotiates it by delivery delivery and without indorsing it, he is called a transferee.
" transferor by delivery ".

(2) A transferor by delivery is not liable on the instrument.

(3) A transferor by delivery who negotiates a bill thereby warrants to his immediate transferee being a holder for value that the bill is what it purports to be, that he has a right to transfer it, and that at the time of transfer he is not aware of any fact which renders it valueless.

DISCHARGES

59. (1) A bill is discharged by payment Payment in in due course by or on behalf of the drawee due course- or acceptor.

" Payment in due course " means payment made at or after the maturity of the bill to the holder thereof in good faith and without notice that his title to the bill is defective.

(2) Subject to the provisions hereinafter contained, when a bill is paid by the drawer or an indorser it is not discharged ; but—

(a) where a bill payable to, or to the order of, a third party is paid by the drawer, the drawer may enforce payment thereof against the acceptor, but may not re-issue the bill;

(b) where a bill is paid by an indorser, or where a bill payable to drawer's order is paid by the drawer, the party paying it is remitted to his former rights as regards the acceptor or antecedent parties, and he may, if he thinks fit, strike out his own and subsequent indorsements, and again negotiate the bill.

(3) Where an accommodation bill is paid in due course by the party accommodated the bill is discharged.

60. (1) When a bill payable to order on demand is drawn on a banker, and the banker on whom it is drawn pays the bill in good faith and in the ordinary course of Banker paying demand draft whereon indorsement is forged.

business, it is not incumbent on the banker to show that the indorsement of the payee or any subsequent indorsement was made by or under the authority of the person whose indorsement it purports to be, and the banker is deemed to have paid the bill in due course, although such indorsement has been forged or made without authority.

[§2.25 of 1957.]

(2) The provisions of subsection (1) shall apply to a banker's draft as if that draft were a bill referred to in that subsection.

In this subsection "banker's draft" has the same meaning as in section 84.

Acceptor the holder at maturity.

61. When the acceptor of a bill is or becomes the holder of it at or after its maturity, in his own right, the bill is discharged.

Express waiver or renunciation.

62. (1) When the holder of a bill at or after its maturity absolutely and unconditionally renounces his rights against the acceptor the bill is discharged.

The renunciation must be in writing, unless the bill is delivered up to the acceptor.

(2) The liabilities of any party to a bill may in like manner be renounced by the holder before, at, or after its maturity, but nothing in this section shall affect the rights of a holder in due course without notice of the renunciation.

Cancellation.

63. (1) Where a bill is intentionally cancelled by the holder or his agent, and the cancellation is apparent thereon, the bill is discharged.

(2) In like manner any party liable on a bill may be discharged by the intentional cancellation of his signature by the holder or his agent. In such case any indorser who would have had a right of recourse against the party whose signature is cancelled is also discharged.

(3) A cancellation made unintentionally, or under a mistake, or without the authority of the holder, is inoperative; but where a bill or any signature thereon appears to have been cancelled, the burden of proof lies on the party who alleges that the cancellation was made unintentionally, or under a mistake, or without authority.

64. (1) Where a bill or acceptance is materially altered without the assent of all parties liable on the bill, the bill is avoided, except as against a party who has himself made, authorized, or assented to the alteration, and subsequent indorsers;

Alteration of bill.

Provided that where a bill has been materially altered, but the alteration is not apparent, and the bill is in the hands of a holder in due course, such holder may avail himself of the bill as if it had not been altered; and may enforce payment of it according to its original tenor.

(2) In particular the following alterations are material, namely, any alteration of the date, the sum payable, the time of payment, the place of payment, and, where a bill has been accepted generally, the addition of a place of payment without the acceptor's assent.

ACCEPTANCE AND PAYMENT FOR HONOUR

65. (1) Where a bill of exchange has been protested for dishonour by non-acceptance, or protested for better security, and is not overdue, any person, not being a party already liable thereon, may, with the consent of the holder, intervene and accept the bill *supra* protest, for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn.

Acceptance for honour *supra* protest.

(2) A bill may be accepted for honour for part only of the sum for which it is drawn.

(3) An acceptance for honour *supra* protest in order to be valid must—

(a) be written on the bill, and indicate that it is an acceptance for honour;

(b) be signed by the acceptor for honour.

(4) Where an acceptance for honour does not expressly state for whose honour it is made, it is deemed to be an acceptance for the honour of the drawer.

(5) Where a bill payable after sight is accepted for honour, its maturity is calculated from the date of the noting for non-acceptance, and not from the date of the acceptance for honour,

Liability of acceptor for honour.

66. (1) The acceptor for honour of a bill by accepting it engages that he will, on due presentment, pay the bill according to the tenor of his acceptance, if it is not paid by the drawee, provided it has been duly presented for payment, and protested for non-payment, and that he receives notice of these facts-

(2) The acceptor for honour is liable to the holder and to all parties to the bill subsequent to the party for whose honour he has accepted.

Presentment to acceptor for honour.

67. (1) Where a dishonoured bill has been accepted for honour supra protest, or contains a reference in case of need, it must be protested for non-payment before it is presented for payment to the acceptor for honour, or referee in case of need.

(2) Where the address of the acceptor for honour is in the same place where the bill is protested for non-payment, the bill must be presented to him not later than the day following its maturity; "and where the address of the acceptor for honour is in some place other than the place where it was protested for non-payment, the bill must be forwarded not later than the day following its maturity for presentment to him.

(3) Delay in presentment or non-presentment is excused by any circumstance which would excuse delay in presentment for payment or non-presentment for payment.

(4) When a bill of exchange is dishonoured by the acceptor for honour it must be protested for non-payment by him.

Payment for Honour supra protest.

68. (1) Where a bill has been protested for non-payment, any person may intervene and pay it supra protest for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn.

(2) Where two or more persons offer to pay a bill for the honour of different parties, the person whose payment will discharge most parties to the bill shall have the preference.

(3) Payment for honour supra protest, in order to operate as such and not as a mere voluntary payment, must be attested by a notarial act of honour which may be appended to the protest or form an extension of it.

(4) The notarial act of honour must be founded on a declaration made by the payer for honour, or his agent in that behalf, declaring his intention to pay the bill for honour, and for whose honour he pays.

(5) Where a bill has been paid for honour, all parties subsequent to the party for whose honour it is paid are discharged, but the payer for honour is subrogated for, and succeeds to both the rights and duties of, the holder as regards the party for whose honour he pays, and all parties liable to that party.

(6) The payer for honour on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonour is entitled to receive both the bill itself and the protest. If the holder do not on demand deliver them up he shall be liable to the payer for honour in damages.

(7) Where the holder of a bill refuses to receive payment supra protest he shall lose his right of recourse against any party who would have been discharged by such payment.

LOST INSTRUMENTS

69. Where a bill has been lost before it is overdue, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer if required to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again. Holder's right to duplicate of lost bill.

If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so.

70. In any action or proceeding upon a bill, the court or a judge may order that the loss of the instrument shall not be set up, provided an indemnity be given to the Action on lost bill-

satisfaction of the court or judge against the claims of any other person upon the instrument in question.

BILL IN A SET

Rules as to sets.

71. (1) Where a bill is drawn in a set, each part of the set being numbered, and containing a reference to the other parts, the whole of the parts constitute one bill.

(2) Where the holder of a set indorses two or more parts to different persons, he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed as if the said parts were separate bills.

(3) Where two or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is as between such holders deemed the true owner of the bill; but nothing in this subsection shall affect the rights of a person who in due course accepts or pays the part first presented to him.

(4) The acceptance may be written on any part, and it must be written on one part only.

If the drawee accepts more than one part, and such accepted parts get into the hands of different holders in due course, he is liable on every such part as if it were a separate bill.

(5) When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereof.

(6) Subject to the preceding rules, where any one part of a bill drawn in a set is discharged by payment or otherwise the whole bill is discharged.

CONFLICT OF LAWS

Rules where laws conflict,

72. Where a bill drawn in one country is negotiated, accepted, or payable in another, the rights, duties, and liabilities of the parties thereto are determined as follows ;—

(1) The validity of a bill as regards requisites in form is determined by the law of the place of issue, and

the validity as regards requisites in form of the supervening contracts, such as acceptance, or indorsement, or acceptance supra protest, is determined by the law of the place where such contract was made:

Provided that—

(a) where a bill is issued outside Sri Lanka it is not invalid by reason only that it is not stamped in accordance with the law of the place of issue ;

(b) where a bill issued outside Sri Lanka conforms, as regards requisites in form, to the law of Sri Lanka, it may, for the purpose of enforcing payment thereof, be treated as valid as between all persons who negotiate, hold, or become parties to it in Sri Lanka.

(2) Subject to the provisions of this Ordinance, the interpretation of the drawing, indorsement, acceptance, or acceptance supra protest of a bill, is determined by the law of the place where such contract is made:

Provided that where an inland bill is indorsed in a foreign country the indorsement shall as regards the payer be interpreted according to the law of Sri Lanka.

(3) The duties of the holder with respect to presentment for acceptance or payment and the necessity for or sufficiency of a protest or notice of dishonour or otherwise, are determined by the law of the place where the act is done or the bill is dishonoured.

(4) Where a bill is drawn out of but payable in Sri Lanka, and the sum payable is not expressed in the currency of Sri Lanka, the amount shall, in the absence of some express stipulation, be calculated according to the rate of exchange for sight drafts at the place of payment on the day the bill is payable.

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(5) Where a bill is drawn in one country and is payable in another, the due date thereof is determined according to the law of the place where it is payable,

- (a) countermand of payment;
- (b) notice of the customer's death.

CROSSED CHEQUES

PART III

CHEQUES ON A BANKER

Cheque defined.

73. A cheque is a bill of exchange drawn on a banker payable on demand.

Except as otherwise provided in this Part, the provisions of this Ordinance applicable to a bill of exchange payable on demand apply to a cheque.

Presentment of cheque for payment.

74. Subject to the provisions of this Ordinance—

- (1) Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or the person on whose account it is drawn had the right at the time of such presentment as between him and the banker to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of such banker to a larger amount than he would have been had such cheque been paid.
- (2) In determining what is a reasonable time regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case.
- (3) The holder of such cheque as to which such drawer or person is discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge, and entitled to recover the amount from him.

Revocation of banker's authority.

75. The duty and authority of a banker to pay a cheque drawn on him by his customer are determined by—

76. (1) Where a cheque bears across its face an addition of two parallel transverse lines, either with or without the words "not negotiable", that addition constitutes a crossing and the cheque is crossed generally.

(2) Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable", that addition constitutes a crossing, and the cheque is crossed specially and to that banker.

77. (1) A cheque may be crossed generally or specially by the drawer,

(2) Where a cheque is uncrossed, the holder may cross it generally or specially.

(3) Where a cheque is crossed generally, the holder may cross it specially.

(4) Where a cheque is crossed generally or specially, the holder may add the words "not negotiable".

(5) Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker for collection.

(6) Where an uncrossed cheque or a cheque crossed generally is sent to a banker for collection, he may cross it specially to himself.

78. A crossing authorized by this Ordinance is a material part of the cheque ; it shall not be lawful for any person to obliterate, or, except as authorized by this Ordinance, to add to or alter the crossing.

79. (1) Where a cheque is crossed specially to more than one banker, except when crossed to an agent for collection being a banker, the banker on whom it is drawn shall refuse payment thereof.

General and special crossings defined. [§4, 30 of 1961.]

[§ 4, 30 of 1961.]

Crossing by drawer or after issue.

[§ 5,30 of 1961-]

Crossing a material part of cheque.

Duties of banker -as to crossed cheque.

(2) Where the banker on whom a cheque is drawn which is so crossed nevertheless pays the same, or pays a cheque crossed generally otherwise than to a banker, or if crossed specially otherwise than to the banker to whom it is crossed, or his agent for collection being a banker, he is liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid:

specially to himself, and the customer has no title or a defective title thereto, the banker shall not incur any liability to the true owner of the cheque by reason only of having received such payment.

(2) A banker receives payment of a crossed cheque for a customer within the meaning of this section notwithstanding that he credits his customer's account with the amount of the cheque before receiving payment thereof.

Provided that where a cheque is presented for payment which does not at the time of presentment appear to be crossed, or to have had a crossing which has been obliterated, or to have been added to or altered otherwise than as authorized by this Ordinance, the banker paying the cheque in good faith and without negligence shall not be responsible or incur any liability, nor shall the payment be questioned by reason of the cheque having been crossed, or of the crossing having been obliterated or having been added to or altered otherwise than as authorized by this Ordinance, and of payment having been made otherwise than to a banker or to the banker to whom the cheque is or was crossed, or to his agent for collection being a banker, as the case may be.

83. Sections 76 to 82, both inclusive, of this Ordinance shall extend to any document issued by a customer of any banker, and intended to enable any person or body corporate to obtain payment from such banker of the sum mentioned in such document, and shall so extend in like manner as if the said document were a cheque:

Extension of sections 76 to 82 to certain drafts on bankers.

Provided that nothing in this Ordinance shall be deemed to render any such document a negotiable instrument.

For the purpose of this section, the Deputy Secretary to the Treasury shall be deemed to be a banker, and the public officers drawing on him shall be deemed customers.

84. Sections 76 to 82, both inclusive, of this Ordinance shall apply to a banker's draft as if that draft were a cheque.

Application of sections 76 to 82 to drafts drawn by a bank on itself.

For the purposes of this section, the expression "banker's draft" means a draft payable on demand drawn by or on behalf of a bank upon itself, whether payable at the head office or some other office of the bank.

Protection to banker and drawer where cheque is crossed.

80. Where the banker on whom a crossed cheque is drawn, in good faith and without negligence pays it, if crossed generally, to a banker, and if crossed specially, to the banker to whom it is crossed, or his agent for collection, being a banker, the banker paying the cheque, and, if the cheque has come into the hands of the payee, the drawer, shall respectively be entitled to the same rights and be placed in the same position as if payment of the cheque had been made to the true owner thereof.

Effect of crossing with words "not negotiable" on holder. [S. 30 of 1961.]

81. Where a person takes a crossed cheque which bears on it the words "not negotiable", he shall not have and shall not be capable of giving a better title to the cheque than that which the person from whom he took it had.

PART IV

PROMISSORY NOTES

85. (1) A promissory note is an Promissory unconditional promise in writing made by one person to another signed by the maker, engaging to pay, on demand or at a fixed or determinable future time, a sum certain in money, to, or to the order of, a specified person or to bearer.

Protection to collecting banker.

82. (1) Where a banker in good faith and without negligence receives payment for a customer of a cheque crossed generally or

(2) An instrument in the form of a note payable to maker's order is not a note within the meaning of this section, unless and until it is indorsed by the maker.

(3) A note is not invalid by reason only that it contains also a pledge of collateral security with authority to sell or dispose thereof.

(4) A note which is, or on the face of it purports to be, both made and payable within Sri Lanka is an inland note. Any other note is a foreign note.

Delivery necessary.

86. A promissory note is inchoate and incomplete until delivery thereof to the payee or bearer.

Joint and several notes.

87. (1) A promissory note may be made by two or more makers, and they may be liable thereon jointly, or jointly and severally, according to its tenor.

(2) Where a note runs " I promise to pay " and is signed by two or more persons, it is deemed to be their joint and several note.

Note payable on demand.

88. (1) Where a note payable on demand has been indorsed, it must be presented for payment within a reasonable time of the indorsement. If it be not so presented the indorser is discharged.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade, and the facts of the particular case.

(3) Where a note payable on demand is negotiated, it is not deemed to be overdue, for the purpose of affecting the holder with defects of title of which he had no notice, by reason that it appears that a reasonable time for presenting it for payment has elapsed since its issue.

Presentment of note for payment to render maker liable.

89. (1) Where a promissory note is in the body of it made payable at a particular place, it must be presented for payment at that place in order to render the maker liable. In any other case, presentment for payment is not necessary in order to render the maker liable.

(2) Presentment for payment is necessary in order to render the indorser of a note liable.

(3) Where a note is in the body of it made payable at a particular place, presentment at that place is necessary in order to render an indorser liable; but when a place of payment is indicated by way of memorandum only, presentment at that place is sufficient to render the indorser liable, but a presentment to the maker elsewhere, if sufficient in other respects, shall also suffice.

90. The maker of a promissory note by making it— Liability of maker-

- (a) engages that he will pay it according to its tenor;
- (b) is precluded from denying to a holder in due course the existence of the payee and his then capacity to indorse.

91. (1) Subject to the provisions in this Part. and except as by this section provided, the provisions of this Ordinance relating to bills of exchange apply, with the necessary modifications, to promissory notes. Application of part II to notes

(2) In applying those provisions the maker of a note shall be deemed to correspond with the acceptor of a bill, and the first indorser of a note shall be deemed to correspond with the drawer of an accepted bill payable to drawer's order.

(3) The following provisions as to bills do not apply to notes, namely, provisions relating to—

- (a) presentment for acceptance;
- (b) acceptance;
- (c) acceptance supra protest;
- (d) bills in a set.

(4) Where a foreign note is dishonoured, protest thereof is unnecessary.

PART V

SUPPLEMENTARY

Good faith.

92. A thing is deemed to be done in good faith within the meaning of this Ordinance, where it is in fact done honestly, whether it is done negligently or not.

Signature.

93. (1) Where, by this Ordinance, any instrument or writing is required to be signed by any person, it is not necessary that he should sign it with his own hand, but it is sufficient if his signature is written thereon by some other person by or under his authority.

(2) In the case of a corporation, where, by this Ordinance, any instrument or writing is required to be signed, it is sufficient if the instrument or writing be sealed with the corporate seal.

But nothing in this section shall be construed as requiring the bill or note of a corporation to be under seal.

Computation of time.

94. Where, by this Ordinance, the time limited for doing any act or thing is less than three days, in reckoning time, non-business days are excluded.

" Non-business days " for the purposes of this Ordinance mean—

- (a) a bank holiday;
- (b) a day appointed to be a public holiday by or under any law for the time being in force.

Any other day is a business day.

When noting equivalent to protest.

95. For the purposes of this Ordinance, where a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding; and the formal protest may be extended at any time thereafter as of the date of the noting.

96. Where a dishonoured bill or note is authorized or required to be protested, and the services of a notary cannot be obtained at the place where the bill is dishonoured, any householder or substantial resident of the place may, in the presence of two witnesses, give a certificate, signed by them, attesting the dishonour of the bill, and the certificate shall in all respects operate as if it were a formal protest of the bill. Protest when notary not accessible.

The form given in the Schedule to this Ordinance may be used with necessary modifications, and if used shall be sufficient.

97. The provisions of this Ordinance as to crossed cheques shall apply to a warrant for payment of dividend. Dividend warrants may be crossed.

98. (1) The rules in insolvency or bankruptcy relating to bills of exchange, promissory notes, and cheques shall continue to apply thereto, notwithstanding anything in this Ordinance contained. Savings.

(2) The rules of the common law of England, including the law merchant, save in so far as they are inconsistent with the express provisions of this Ordinance, or any other enactment for the time being in force, shall apply to bills of exchange, promissory notes, and cheques.

(3) Nothing in this Ordinance or in any repeal effected thereby shall affect—

- (a) any law or enactment for the time being in force relating to stamps or the revenue;
- (b) the provisions of the Companies Ordinance,* or enactments amending it, or any enactment relating to joint stock banks or companies;
- (c) the provisions relating to promissory notes contained in the Money Lending Ordinance;
- (d) the validity of any usage relating to dividend warrants or the indorsement thereof.

* Repealed and replaced by the Companies Act, No. 17 of 1982.

BILLS OF EXCHANGE

SCHEDULE

[Section 96.] FORM OF PROTEST WHICH MAY BE USED WHEN THE SERVICES OF A NOTARY CANNOT BE OBTAINED

Know all men that I. A. B. (householder), of..... in the district of..... in Sri Lanka, at the request of C. D., there being no notary public available, did on the.....-day of..... 19....., at..... demand payment (or acceptance) of the bill of exchange hereunder written, from E. F; to which demand he made answer (*state answer, if any*), wherefore I now in the presence of G. H. and J. K. do protest the said bill of exchange.

(Signed) A.B.

G. H.]
J. K.] Witnesses.

MB.—The bill itself should be annexed, or a copy of the bill and all that is written thereon should be underwritten.

CHAPTER 55

BETTING ON HORSE-RACING

Ordinances Nos. 9 of 1930, 29 of 1930, 55 of 1943. AN ORDINANCE FOR THE TAXING OF BETTING ON HORSE-RACING, FOR THE REGISTRATION OF RACE-COURSES, AND FOR EXEMPTING TAXABLE BETS FROM THE PROVISIONS OF THE GAMING ORDINANCE.

[1st August, 1930.]

Shorttitle. **1.** This Ordinance may be cited as the Betting on Horse-Racing Ordinance.

ship, boat or other vessel, whether afloat or not, and any vehicle;

Interpretation. **2.** In this Ordinance, unless the context otherwise requires—

"prescribed" means prescribed by this Ordinance or by regulations made thereunder;

"backer" includes any person who bets at a totalisator;

"race-meeting" means a meeting at which one or more horse-races are run, whether exclusively or in conjunction with any other event or events;

"certificate-holder" means any person to whom a certificate of registration is issued under this Ordinance, and in the case of a certificate issued to the stewards of a racing club, the stewards of the club functioning as such during the continuance of the certificate;

"racing club" includes a club, association, society, or body of persons, corporate or unincorporate formed for the purpose of promoting horse-races, and for holding, conducting or controlling race-meetings;

"instrument of unlawful betting" means any article or thing used or intended to be used as a subject or means of unlawful betting on a horse-race, or any document used or intended to be used as a register or record or evidence of any unlawful betting on a horse-race;

"registered race-course" means a race-course registered under the provisions of this Ordinance;

"money" includes a currency note, cheque, postal order or money order and any security for money;

"totalisator" means the contrivance for betting known as a totalisator or pari-mutuel or any other machine or instrument of betting of a like nature, whether mechanically operated or not;

"occupier", in relation to any premises, includes any person having the use temporarily or otherwise of the premises and any agent of such person;

"unlawful betting", with its grammatical variations and cognate expressions, when used in relation to a horse-race, means making, placing, receiving or negotiating a bet on a horse-race other than a taxable bet.

"owner", in relation to any premises, includes any agent of the owner of the premises;

"premises" includes any place or spot, whether open or enclosed, and any

3. (1) There shall be charged and levied. Taxable bets. at the rate prescribed by or under this Ordinance and in the manner provided by this Ordinance, a tax on bets of not less

than one rupee on any horse-race which is run or proposed to be run at a race-meeting held on a registered race-course, made otherwise than on credit by a person acting on his own behalf, after the prescribed hour on the day on which the race is run, at a totalisator worked by the certificate-holder for the race-course, within a room or place set apart for the purpose under section 7 of this Ordinance.

(2) All such bets are referred to in this Ordinance as "taxable bets".

(3) Any person who—

(a) makes or places a bet on a horse-race other than a taxable bet, or

(b) receives or negotiates a bet on a horse-race other than a taxable bet,

shall be deemed to bet unlawfully on a horse-race and shall be guilty of an offence.

(4) For the purposes of subsection (1), "prescribed hour", when used in relation to a bet made on a horse-race run or proposed to be run at any race-meeting held on a registered race-course on any day, means one hour before the time fixed for the commencement of the first horse-race proposed to be run at that race-meeting on that day.

4. (1) Any person who, being the owner or occupier of any premises—

(a) lets the whole or any part of those premises, knowing or having reason to believe that the whole or any part of the premises is to be kept or used for the purpose of unlawful betting on a horse-race; or

(b) keeps or uses, or knowingly permits any other person to keep or use, the whole or any part of those premises for the purpose of unlawful betting on a horse-race,

shall be guilty of an offence.

(2) For the purposes of subsection (1), any premises shall be deemed to be kept or used for the purpose of unlawful betting on

a horse-race if they are used for such purpose even on one occasion only.

5. Notwithstanding anything contained in the Gaming Ordinance, it is hereby declared that—

(i) no prosecution under that Ordinance shall be instituted or maintained in respect of any taxable bet; and

(ii) the exemptions given by section 21 of that Ordinance shall not be construed so as to apply in the case of any bet made on a horse-race,

6. (1) The stewards of any racing club, or any other person, may apply to the prescribed officer for the registration of any race-course under their or his control, for the purpose of holding a race-meeting or race-meetings thereon.

(2) Every such application shall be made in the prescribed form, and the prescribed officer shall, upon receipt of the application together with the prescribed fee, if any, duly register the race-course or race-courses in respect of which application for registration has been made, and shall issue to the stewards or to the other person making the application a certificate of registration in the prescribed form in respect of each race-course so registered:

Provided that where a certificate so issued has been cancelled under section 14 the prescribed officer may refuse to re-register the race-course in respect of which it had been issued if the application for such re-registration is made by the original certificate-holder or some person associated with him in its control.

(3) Every application under this section by the stewards of a racing club may be made by the secretary of the club for the time being.

7. (1) Where a certificate-holder intends to work one or more totalisators at any race-meeting to be held on the race-course in respect of which his certificate has been issued, he shall inform the prescribed officer

Declarations as to prosecutions and exemptions under the Gaming Ordinance.

Registration of race-course.

Keeping, Ac. of premises for unlawful betting on a horse-race.

Totalisators on registered race-courses.

of his intention, in writing, at least seven days prior to that race-meeting and shall specify the number of totalisators to be worked at that race-meeting and the particular enclosure of such race-course in which each such totalisator is to be worked. The certificate-holder shall set apart in each enclosure of such race-course one or more special rooms or places for each totalisator which he intends to work in that enclosure.

(2) Where at any race-meeting held on any race-course on any day, several enclosures are provided and different rates of fees are charged for admission to the several enclosures, no bet shall be made or accepted on any totalisator in any such enclosure except—

- (a) in a room or place set apart in that enclosure under subsection (1) for the purpose of that totalisator; and
- (b) by or from a person who holds a ticket of admission issued to him by the certificate-holder entitling him to enter that enclosure on that day.

(3) In this section, "enclosure " when used in relation to any race-course, means any enclosure within that race-course to which members of the public are admitted on payment of a fee.

Certificate-holder to keep accounts, and to permit inspection, &c.

8. Every certificate-holder shall keep accounts containing such particulars as the prescribed officer may require, and showing all sums paid by way of taxable bets at every race-meeting held on the registered race-course in respect of which his certificate has been issued, and shall, when required in writing by the prescribed officer, permit him, or any person deputed in writing by him for that purpose, to enter and inspect any such race-course, and to inspect and take copies of such accounts.

Betting tax.

9. (1) On all sums referred to in section 8, there shall be charged and levied a tax payable by the backers, hereinafter referred to as *' the betting tax ", at the rate of three and a half per centum of every such sum, or at such other rate as may be authorized by resolution of Parliament.

(2) The betting tax shall be deducted by the certificate-holder from such sums and shall be retained by him on behalf of the Government, and the certificate-holder shall, at the prescribed time and in the prescribed manner, forward to the prescribed officer a return showing the totals of all such sums and make over to him the amount of the betting tax payable thereon, and the prescribed officer shall receive the same on behalf of the Government.

10. Every certificate of registration issued under this Ordinance shall be exhibited by the certificate-holder in a prominent place on the race-course in respect of which it has been issued during the whole of every race-meeting held thereon.

Exhibition of certificate of registration.

11. (1) Every certificate-holder or other person who contravenes or fails to comply with any of the provisions of this Ordinance or of any regulation made thereunder shall be guilty of an offence.

Penalty for offences by certificate-holders, and others.

(2) Every person who is guilty of an offence under this Ordinance shall, on conviction of such offence after summary trial before a Magistrate, be liable—

- (a) for a first offence, to a fine not exceeding one thousand rupees, or, in default of payment of such fine, to imprisonment of either description for a term not exceeding one year; and
- (6) for a second or subsequent offence, to a fine not exceeding two thousand rupees or to imprisonment of either description for a term not exceeding two years, or to both such fine and imprisonment.

12. Upon the conviction of any person of an offence under section 3 (3) or section 4, the Magistrate may order that any instrument of unlawful betting produced before the court, and any money so produced which the Magistrate is satisfied was used or intended to be used for the purpose of unlawful betting on a horse-race, be forfeited to the State and may give such directions for the disposal of such instrument or such money as he may deem fit.

Forfeiture by court of instruments of betting, money, &c.

Recovery of betting tax.

, '13.; When any certificate-holder is -convicted of an offence by reason of failure to make over any sum due and payable as betting tax, the Magistrate shall, in addition to any penalty imposed by him, order that the sum so due and payable, or any amount thereof which is outstanding shall be recoverable from the certificate-holder who has been convicted as if it were a fine imposed upon him by a Magistrate's Court, and the same may be recovered accordingly.

for prescribing all matters which may or are to be prescribed.

Cancellation of certificates on conviction.

14. Where a certificate-holder is convicted of an offence against this Ordinance or any regulation made thereunder, the certificate may be forthwith cancelled by the prescribed officer, but such cancellation shall not be deemed to be a penalty within the meaning of section 11.

(2) All regulations made under this Ordinance shall be laid, as soon as conveniently may be, on the table of Parliament at two successive meetings of Parliament, and shall be brought before Parliament at the next subsequent meeting held thereafter by a motion that the said regulations shall not be disapproved, and if upon the introduction of any such motion, or upon any adjournment thereof, the said regulations are disapproved by Parliament, such regulations shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything already done thereunder; and such regulations, if not so disapproved, shall continue to be of full force and effect. Every such disapproval shall be published in the Gazette.

Offences and other acts by stewards of racing club.

15. (1) When any offence against this Ordinance or any regulation made thereunder is committed by the stewards of a racing club in their capacity as a certificate-holder, the president or chairman of the club, and every officer or steward of the club, shall be guilty of the like offence, unless the act or omission constituting the offence took place without his knowledge or consent'.

17. (1) Where a Magistrate is satisfied Search by information on oath that there is reason warrants. to suspect that any offence against this Ordinance or any regulation made thereunder is being or has been committed, or that there is any document or thing directly or indirectly connected with any such offence, in any premises, he may grant a search warrant authorizing any person named therein to enter at any time, with or without assistants, if need be by force, the said premises and to search the same and any person found therein and to seize and detain any such document or thing, or any instrument of unlawful betting, or any money which the person so authorized reasonably suspects to have been used or intended to be used for the purpose of unlawful betting on a horse-race, and, if he thinks fit, to arrest any person found in or escaping from the premises whom he has reason to suspect is guilty of any such offence.

(2) All acts which, by this Ordinance or by any regulation made thereunder, are required to be done by a certificate-holder, may, when the certificate is held by the stewards of a racing club, be done by the secretary of the club for the time being, on behalf of the stewards.

Regulations.

16. (1) It shall be lawful for the Minister to make regulations for all or any of the following matters or purposes :—

- (a) for prescribing forms to be used for the purposes of this Ordinance;
- (b) for securing the payment of the betting tax;
- (c) for the production and inspection of accounts required to be kept under this Ordinance; and
- (d) generally for carrying into effect the provisions of this Ordinance, and

(2) Where a police officer of or above the rank of Sergeant in charge of a police station has reason to suspect that any such offence is being or has been committed, or that there is any such document or thing, in any premises, and that a search warrant cannot be obtained under subsection (1) without affording the offender an opportunity of escape or of concealing

evidence of the offence, he may, after recording the grounds of his suspicion, exercise all or any of the powers which could have been conferred on him by subsection (1).

(c) if any person' So authorized is unlawfully prevented from or obstructed or delayed in entering or approaching such premises—

it shall be presumed, until the contrary is proved, that such premises are kept or used for the purpose of unlawful betting on a horse-race and are so kept or used by the occupier thereof.

Presumptive proof against occupier of premises.

18. Where any premises are entered under the authority of a search warrant issued by a Magistrate under section 17 (1) upon the Magistrate being satisfied that there is reason to suspect that an offence against any section 3 (3) or section 4 is being or has been committed in those premises then—

- (a) if any instrument of unlawful betting is found in those premises or upon any person found therein, or
- (b) if persons are seen or heard to escape therefrom on the approach or entry of any person authorized under such warrant to enter and search such premises, or

19. Any person who is found—

- (a) in any premises kept or used for the purpose of unlawful betting on a horse-race; or
- (b) in possession of any instrument of unlawful betting on the occasion of his being searched under this Ordinance,

Presumptive proof of unlawful betting on a horse-race.

shall be presumed, until the contrary is proved, to be guilty of the offence of unlawful betting on a horse-race.

CHAPTER 420

BUDDHIST PUBLICATION SOCIETY

Law A LAW TO INCORPORATE THE BUDDHIST PUBLICATION SOCIETY.
 No. 29 of 1975.

[17th July, 1975.]

Short title. **1.** This Law may be cited as the Buddhist Publication Society Law.

Incorporation of the Buddhist Publication Society. **2.** From and after the date of commencement of this Law, the President and the members of the Board of Management for the time being of the Buddhist Publication Society (hereinafter referred to as "the Society") and such and so many persons as now are members of the Society or shall hereafter be admitted members of the corporation hereby constituted, shall be and become a corporation with perpetual succession under the style and name of "The Buddhist Publication Society" (hereinafter referred to as "the corporation") and by that name may sue and be sued in all courts, with full power and authority to have and use a common seal and to alter the same at its pleasure.

General objects of the corporation. **3.** The general objects for which the corporation is constituted are hereby declared to be,—

- (a) the publication of Buddhist literature,
- (b) the promotion of the observance of the Buddha Dhamma,
- (c) making known the Buddha Dhamma in the different countries, and
- (d) the support of Buddhist welfare work and relief of distress.

Board of Management. **4.** (1) The affairs of the corporation shall, subject to the rules in force for the time being of the corporation as hereinafter provided, be administered by a Board of

Management consisting of the President, the Honorary Secretary, two Honorary Joint Secretaries and the Honorary Treasurer of the corporation and not more than four other members to be elected in accordance with the rules for the time being of the corporation.

(2) All members of the corporation shall be subject to the rules in force for the time being of the corporation.

(3) The first Board of Management of the Corporation shall consist of the Venerable Nyanaponika Maha Thera, the Founder President, Mr. Richard Abeyasekera, Founder Honorary Secretary, Messrs. P. B. Mudannayake and T. B. Naranpanawa, Honorary Joint Secretaries and Mr. A. S. Karunaratne the Founder Honorary Treasurer, Mr. E. Eramudugolla and Mr. Brindley Ratwatte.

5. It shall be lawful for the corporation from time to time at any general meeting of the members, and by a majority of votes to make rules for the admission, withdrawal or expulsion of members, for the conduct of the duties of the Board of Management and of the various officers, agents, and servants of the corporation, for the procedure in the transaction of business, and otherwise generally for the management of the affairs of the corporation and the accomplishment of its objects. Such rules when made may, at a like meeting, be altered, added to, amended, or revoked, subject however, to the requirements of section 7.

6. Subject to the provisions in the preceding section contained, the rules set out in the Schedule* hereto shall for all purposes be the rules of the corporation:

Provided, however, that nothing in this section contained shall be deemed to

* Schedule omitted.—Private enactment.

prevent the corporation at all times hereafter from making fresh rules or from altering, amending, adding to, or revoking any of the rules set out in the Schedule* or any of the rules that may hereafter be made by the corporation.

members of the Board of Management, duly authorized, who shall sign their names to the instrument in token of their presence and such signing shall be independent of the signing of any person as a witness.

Amendment, &c., of rules.

7. No rule in the Schedule* hereto, nor any rule hereafter made by the corporation, shall be altered, added to, amended or revoked, except by a vote of two-thirds of the members present at a general meeting of the corporation, and unless such amendment shall have been previously approved by the Board of Management.

10. The corporation shall be able and capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the corporation for the purposes of this Law and subject to the rules for the time being of the said corporation, with full power to sell, mortgage, lease, exchange, or otherwise dispose of the same.

Powers of the corporation to hold property.

Debts due by and payable to the Society.

8. All debts and liabilities of the Society existing at the time of the coming into operation of this Law shall be paid by the corporation, and all debts due to and subscriptions payable to the Society shall be paid to the corporation for the purposes of this Law.

11. Nothing in this Law contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Law and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

Seal of the corporation.

9. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of at least two of the

*Schedule omitted.—Private enactment.

CHAPTER 169

BUDGETARY RELIEF ALLOWANCE OF WORKERS (NO. 1)

Law
No. 1 of 1978.

A LAW TO PROVIDE FOR THE PAYMENT OF A BUDGETARY RELIEF ALLOWANCE BY EMPLOYERS TO WORKERS AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1 st December, 1977.]

Short title.

1. This Law may be cited as the Budgetary Relief Allowance of Workers (No. 1) Law.

4. Every worker who has been employed by any employer in any trade, on the day immediately prior to the 1st day of December, 1977, shall for so long as he continues to be a worker of such employer, continue to be so employed on such terms and conditions relating to salary, allowance or other payments in money by whatsoever name or designation called (excluding the special allowance payable under section 3 of this Law) as are not less favourable than those which such worker had enjoyed on the day immediately prior to the 1st day of December, 1977.

Special provisions regarding continuation of employment.

Competent authority.

2. (1) The Commissioner shall be the competent authority for the purposes of this Law.

(2) The competent authority may delegate to any officer of the Department of Labour any power, function or duty conferred or imposed on, or assigned to, such authority by this Law.

5. (1) The employer of a worker in any trade shall maintain and keep in the premises in which that trade is carried on, a register setting out—

Duty of employer to maintain register.

Payment of special allowance.

3. With effect from the 1st day of December, 1977, every employer in any trade shall in respect of each month pay to every worker employed by him, an allowance (in this Law referred to as the "special allowance"), calculated on the following basis :—

- (a) in the case of a worker remunerated at a monthly rate, an amount not less than twenty-five *per centum* of the wages or salary due to such worker for the month ;
- (b) in the case of a worker paid at a daily rate, an amount not less than twenty-five *per centum* of the daily rate due to such worker for each day he has worked during the month ;
- (c) in the case of a worker who is employed on a piece-rate basis, an amount not less than twenty-five *per centum* of the wages due to such worker at such piece-rate for the month:

- (a) the name of each worker employed by him ;
- (b) the class of work performed by each worker employed by him ; and
- (c) the amount paid to each such worker in accordance with section 3 of this Law.

(2) Every employer who maintains or has maintained a register under subsection (1), shall preserve such register for a period of four years commencing on the 1st day of December, 1977, and shall, when required to do so by the Commissioner, produce such register for inspection or furnish a true copy of such register or permit such a copy to be made.

6. The competent authority shall have the power—

Powers of competent authority.

- (a) to enter and inspect at all reasonable hours of the day or night, any place in which workers in any trade

Provided, however, that the special allowance payable under paragraph (a) or paragraph (b) or paragraph (c) shall not in any case exceed fifty rupees.

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are employed, for the purpose of examining any register or of ascertaining whether the provisions of this Law are being complied with ; or

- (b) if any such register is not available for examination when he is inspecting such place, to require the production of such register on a specified later date for examination at such place or at the office of such authority ; or
- (c) to take copies of the whole or any part of any such register ; or
- (d) to interrogate any person whom he finds in such place and whom he has reasonable cause to believe is an employer or, a worker employed in any trade carried on in such place ; or
- (e) to direct in writing any employer of workers in any trade to furnish to him on or before a specified date—
 - (i) a return relating to all workers employed by any such employer or any specified class or description of such workers and containing such other particulars as he may require for the purposes of this Law ;
 - (ii) such information or explanation as he may require in respect of any particulars stated in any return furnished by any such employer ; or
 - (iii) a true copy of the whole or any part of any register maintained by any such employer.

Offences and penalties.

7. Every person who—

- (a) fails to furnish the means required by the competent authority as necessary for any entry or inspection or the exercise of his powers under section 6 ; or
- (b) hinders or molests such authority in the exercise of the powers conferred by that section ; or
- (c) refuses to produce any register or furnish any information which such

authority requires him to produce or furnish ; or

- (d) makes or causes to be made in any register, any statement which is false in any material particular, or produces, or causes or knowingly allows to be produced, any register containing a false statement to such authority, knowing the same to be false ; or
- (e) furnishes any information to such authority acting under the powers conferred by that section, knowing the same to be false ; or
- (f) makes default in complying with any directions given by such authority under section 6, or who, when called upon to furnish a return under that section, knowingly, makes or furnishes, or causes to be made or furnished, a return containing any false statement,

shall be guilty of an offence and shall be liable on conviction before a Magistrate 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.

8. The special allowance payable to a worker under this Law shall be deemed for all purposes to constitute part of his wages and accordingly every employer of such worker shall pay such special allowance within the period within which such employer is required by any written law to pay the wages of such worker.

Payment due under this Law to constitute part of a worker's wages.

9. (1) Every employer who fails to pay a sum required to be paid to a worker of such employer under this Law or fails to comply with the provisions of section 4 or section 8 shall be guilty of an offence and shall be liable, on conviction before a Magistrate, 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.

Failure to pay sums due to workers.

(2) Upon conviction by the Magistrate's Court of an employer for failure to pay any sum required to be paid to a worker of such employer under this Law, the court shall, in addition to any other penalty which it may impose for such offence, order such employer to pay such sum to such worker,

within a period specified in the order, and if such sum is not so paid, such sum shall be recovered and paid to such worker on the order of the court, as if it were a fine imposed by the court.

Recovery of sums due to workers in certain cases.

10. (1) Where an employer has been convicted for failure to pay any sum required to be paid to a worker of such employer under this Law, then, if a notice in the prescribed form of intention so to do has been served on the employer at any time before the date of commencement of the trial, evidence may be given of any failure on the part of the employer to pay any sum in accordance with the provisions of this Law to that worker or any other worker or workers at any time during the four years preceding the date on which complaint was made to court of the offence of which the employer has been so convicted and, on proof of the failure, the court may order the employer to pay such sum as may be found by the court to be due from him to such worker or workers. Any sum ordered to be paid under this subsection may be recovered in the same manner as a fine.

(2) In this section "prescribed" means prescribed by regulation made under section 11.

Regulations.

11. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation

which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

12. In this Law, unless the context otherwise requires—

"Commissioner", "employer" and "wages" have the same meanings respectively, as in the Wages Boards Ordinance ;

"trade" includes any industry, business, undertaking, occupation, profession or calling carried on, performed or exercised by an employer or worker, and any branch of, or any function or process in, any trade, but does not include any industry, business or undertaking which is carried on by any body corporate or unincorporate whose capital is wholly provided by the Government in its capacity as an employer or which is carried on mainly for the purpose of giving an industrial training to juvenile offenders or orphans or persons who are destitute, dumb, deaf or blind ; and

"worker" means a person employed in any capacity by any employer under a contract whether oral, written, expressed or implied, to perform any work in any trade, and includes a worker whose salary or wages are regulated by any written law or otherwise and a worker employed on a piece-rate basis but does not include a domestic servant or an employer's personal chauffeur.

CHAPTER 170

BUDGETARY RELIEF ALLOWANCE OF WORKERS (NO. 2)

Law No.18 of 1978. A LAW TO PROVIDE FOR THE PAYMENT OF A BUDGETARY RELIEF ALLOWANCE BY EMPLOYERS TO CERTAIN CATEGORIES OF WORKERS, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[17 th February. 1977.]

Short title. **1.** This Law may be cited as the Budgetary Relief Allowance of Workers (No. 2) Law.

Competent authority. **2.** (1) The Commissioner shall be the competent authority for the purposes of this Law.

(2) The competent authority may delegate to any officer of the Department of Labour any power, function or duty conferred or imposed on such authority by this Law.

Budgetary relief allowance. **3.** (1) With effect from the 17th day of February, 1977, every employer in any trade who employs not less than twenty-five workers shall, in respect of each month, pay to each worker whose total earnings for the month do not exceed eight hundred rupees, an allowance, in this Law referred to as the " budgetary relief allowance ", which is not less than fifteen rupees :

Provided that—

(a) where the employer is an employer in the tea growing and manufacturing trade, or the rubber growing and manufacturing trade, or the cocoa, cardamom and pepper growing and manufacturing trade, or the coconut growing trade, or the cinnamon or the tobacco trade, the budgetary relief allowance payable to each worker shall be six *per centum* of the amount payable to such worker as wages for the number of days he has worked during the month, or fifteen rupees, whichever is less, and such allowance shall be payable irrespective of the number of workers employed by such employer ; and

(b) where the employer is a co-operative society, the budgetary relief allowance shall be payable irrespective of the number of workers employed by such co-operative society, and in the case of a casual worker, such allowance shall be in proportion to the number of days he has worked for the month.

(2) Where a worker is employed on a piece-rate basis, or a daily-rate basis, the budgetary relief allowance payable under this Law shall be a sum not less than six *per centum* of the wages payable to him on a piece-rate basis or a daily-rate basis, as the case may be, so however, that the amount payable under this subsection shall not exceed fifteen rupees per month.

(3) Every employer of a worker whose total earnings for the month exceed eight hundred rupees, but are less than eight hundred and ninety rupees, shall, in respect of each month, pay to such worker as the budgetary relief allowance, an amount equivalent to the difference between eight hundred and ninety rupees and the amount drawn by such worker as salary or wages for that month.

(4) Notwithstanding the preceding provisions of this section, the budgetary relief allowance shall not be payable to a worker—

(a) to whom Collective Agreement No. 5 of 1967 applies ;

(b) to whom the employer, voluntarily or otherwise, pays wages and a non-recurring Cost of Living Gratuity which are not less

BUDGETARY RELIEF ALLOWANCE OF WORKERS (NO. 2) [Cap. 170

favourable than the amount payable under the Collective Agreement referred to in paragraph (a);

- (c) to whom the employer pays a Cost of Living Allowance determined in accordance with the Colombo Consumers' Price Index ;
- (d) who is employed in an institution declared to be an approved charity under section 16A of the Inland Revenue Act, No. 4 of 1963, or under section 31 (9) (a) of the Inland Revenue Act (No. 28 of 1979), as the case may be ;
- (e) whose employer is bound by an Order under section 10 (2) of the Industrial Disputes Act, in respect of any Collective Agreement published in Gazette No. 14,975 of September 10, 1971, and pays wages and a non-recurring Cost of Living Gratuity in terms of any such agreement, where the total number of workers employed by such employer is less than twenty-five.

4. The provisions of this Law shall have force and effect notwithstanding anything in any other written law or in any contract of employment, whether oral, written, express or implied ; and accordingly, in the event of any conflict or inconsistency between the provisions of this Law and any such other law or such contract, the provisions of this Law shall, to the extent of such inconsistency, prevail over any such other law or such contract.

5. Every worker including an unskilled worker who has been employed in any of the trades specified in this Law on the day immediately prior to the 17th day of February, 1977, shall, for so long as he continues to be a worker of such employer, continue to be so employed by such employer on such terms and conditions relating to salary, allowances or other payments in money by whatsoever name or designation called, as are not less favourable than those which such worker had enjoyed on the day immediately prior to the 17th

day of February, 1977, other than any such allowances as were paid to him under Emergency Regulations made under section 5 of the Public Security Ordinance, and the allowance payable under the preceding provisions of this Law shall be in addition to such salary, allowances or other payments.

6. (1) The employer of a worker in any trade shall maintain and keep in the premises in which that trade is carried on a register, in respect of the workers employed in that trade, showing—

the name of each worker employed ;

- (b) the class of work performed by each such worker ; and
- (c) the amount paid to each such worker in accordance with the provisions of this Law.

(2) Every person who, as an employer, maintains or has maintained under subsection (1) any record shall preserve such record for a period of four years commencing on the date on which the record was required to be maintained under this Law and shall, when required to do so by the Commissioner, produce such record for inspection and furnish a true copy of such record or permit such copy to be made.

7. The competent authority shall have the power—

- (a) to enter and inspect at all reasonable hours of the day or night any place in which workers referred to in this Law are employed, for the purpose of examining any register or record of wages, or of ascertaining whether the provisions of this Law are being complied with ; or
- (b) where any such record or register is not available for examination when he is inspecting such place, to require the production of such register or record on a specified later date for examination at such place or at his office ; or
- (c) to take copies of the whole or any part of any such register or record ; or

Maintenance of records by employers.

Powers of competent authority.

This Law to have force and effect notwithstanding anything in any other written law.

Special provisions regarding continuation of employment.

- (d) to interrogate any person whom he finds in such place and whom he has reasonable cause to believe is an employer or a worker engaged or employed in any trade carried on in such place ; or
- (e) to direct in writing any employer to whom this Law applies to furnish to him on or before a specified date—
 - (i) a return relating to all workers employed by any such employer or any specified class or description of such workers and containing such particulars as he may require for the purposes of this Law ;
 - (ii) such information or explanation as he may require in respect of any particulars stated in any return furnished by any such employer ; or
 - (iii) a true copy of the whole or any part of any register or record maintained by any such employer.

produces or causes or knowingly allows to be produced any register or record to such authority acting under the powers conferred by section 7, knowing the same to be false ; or

(f) makes default in complying with any direction given by such authority under section 7 or who, when called upon to furnish a return under the said section 7, knowingly makes or furnishes or causes to be made or furnished, a false return or a return containing any false statement,

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

9. Any sum due to a worker under section 3 shall, for all purposes of any written law or otherwise, be deemed to constitute part of his wages and accordingly every employer of such worker shall pay such sum within the period of his liability to pay the wages of such employee.

Payments due under this Law to constitute part of a worker's wages.

Offences and penalties,

8. Every person who, on or after the 17th day of February, 1977—

- (a) fails to comply with the provisions of section 6 ; or
- (b) fails to furnish the means required by the competent authority as necessary for any entry or inspection or the exercise of his powers under section 7 ; or
- (c) hinders or molests such authority in the exercise of the powers conferred by section 7 ; or
- (d) refuses to produce any register or record of wages, or give any information which such authority requires him to produce or give under the powers conferred by section 7 ; or
- (e) makes or causes to be made any register or record of wages which is false in any material particular, or

10. (1) Any employer who fails to pay a sum required to be paid to a worker of such employer under this Law shall be guilty of an offence and shall be liable on conviction before a Magistrate 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.

Failure to pay sums due to workers.

(2) Upon conviction by the Magistrate's Court of an employer for an offence by reason of the failure of such employer to pay any sum required to be paid to a worker of such employer under this Law, the court may, in addition to any other penalty which it may have imposed for such offence, order such employer to pay such sum to such worker, within a period specified in the order, and if such sum is not so paid, such sum may be recovered and paid to such worker on the order of the court as if it were a fine imposed by the court.

11. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law.

Regulations.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

Interpretation. **12.** In this Law, unless the context otherwise requires—

" Collective Agreement " has the same meaning as in the Industrial Disputes Act ;

" Commissioner " means the person for the time being holding the office of Commissioner of Labour and includes any person for the time being holding office as a Deputy Commissioner of Labour or as a Senior Assistant Commissioner of Labour or as an Assistant Commissioner of Labour or as a labour officer ;

" co-operative society " means a co-operative society registered or deemed to be registered under the Co-operative Societies Law ;

" earnings " shall have the same meaning as in the Employees' Provident Fund Act ;

" employer " means any person who on his own behalf employs, or on whose behalf any other person employs, any worker in any trade and includes any person who on behalf of any other person employs any worker in any trade ;

" trade " includes any industry, business, undertaking, occupation, profession or calling carried on, performed or exercised by an employer or worker, and any branch of, or any function or process in, any trade, but does not include any industry, business or undertaking, which is carried on by any body corporate or unincorporate whose capital is wholly provided by the Government in its capacity as an employer or which is carried on mainly for the purpose of giving an industrial training to juvenile offenders or orphans or persons who are destitute, dumb, deaf or blind ; and

" worker " means a person employed by any employer under a contract whether oral, written, expressed or implied to perform any work in any trade, industry, business, occupation or calling, and includes a worker whose salary or wages are regulated by any written law or otherwise, and a worker employed on a piece-rate basis, but does not include a domestic servant or an employer's personal chauffeur.

CHAPTER 386

BUDDHA SRAVAKA DHARMAPITHAYA

Act No, 16 of 1968. AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT AND REGULATION OF A UNIVERSITY FOR *BHIKKHUS*.

[31st May, 1968.]

Short title. **1.** This Act may be cited as the Buddha Sravaka Dharmapithaya Act.

(d) to sell, hypothecate, lease, exchange or otherwise dispose of any such property; and

PART I

THE BUDDHA SRAVAKA DHARMAPITHAYA

(e) to exercise and perform in accordance with the provisions of this Act and of the Statutes and Rules, whenever necessary, all the powers and duties conferred or imposed on the University by any of such provisions:

Establishment and incorporation of Buddha Sravaka Dharmapithaya.

2. (1) There shall be established a unitary and residential University for *bhikkhus*. The University*, so established, shall have the name and style of "The Buddha Sravaka Dharmapithaya".

Provided that any sale, hypothecation, lease, exchange or other disposition of any such property shall be void if it is made in contravention of any restriction, condition or prohibition imposed by law or by the instrument by which the property was vested in the University.

(2) The University shall have its seat on such site as the Minister may determine by Order published in the Gazette.

3. The objects of the University shall be— Objects of the University.

(3) The Dharmapithadhipati and the members for the time being of the Anusasaka Mandalaya, the Board of Education and Administration and the Dayaka Mandalaya shall be a body corporate with perpetual succession and with the same name as that assigned to the University by subsection (1), and shall have power in such name—

(a) to train *bhikkhus* in accordance with the teachings of the Buddha;

(a) to sue and be sued in all courts;

(b) to promote meditation among the students of the University ;

(b) to have and use a common seal;

(c) to train *bhikkhus* for the propagation of the teachings of the Buddha in Sri Lanka and abroad;

(c) for the purposes of this Act and subject to the Statutes and Rules to purchase, acquire by gift, testamentary disposition or otherwise, take on lease or hire, and hold any movable or immovable property;

(d) to encourage the study of, and research in. Buddhism ; and

(e) to promote Buddhist culture.

4. The University shall, subject to the provisions of this Act and of the Statutes and Rules, have the power— Powers of the University

(a) to provide for instruction in the following subjects, namely, Sutra, Abhidharma, Vinaya, Buddhist

* Exempted from the operation of Section 130 (1) and (2) of the Universities Act.

- Philosophy and Logic, Buddhist History and Culture, Comparative Religion and Languages and to establish in respect of each of such subjects, or a group of such subjects, a Department of Study ;
- (b) to hold examinations for the purpose of ascertaining the persons who have acquired proficiency in different branches of study;
- (c) to provide post-graduate courses in Dharmaduta Activities and Buddhist Education and for this purpose to co-operate with other Universities or Authorities, in such manner and for such purposes as the University may determine ;
- (d) to grant and confer such degrees, diplomas and other distinctions as under this Act are determined by the Board of Education and Administration and approved by the Minister, to and on persons who have pursued approved courses of study in the University and who have passed the necessary examinations of the University;
- (e) to institute such teaching and other posts or such offices as may be necessary for the purposes of the University, to make appointments to such posts or offices and to determine the conditions of employment;
- (f) to confer honorary degrees or other distinctions on approved persons;
- (g) to erect, equip and maintain for the purposes of the University, libraries and other buildings whether for instructional or residential purposes;
- (h) to manage Halls of Residence for the residence of students of the University;
- (i) to regulate and provide for the residence, discipline and moral, mental and physical well-being of officers, teachers, students and servants of the University;
- (j) to establish and regulate by Statute a provident fund for the benefit of the officers of the University who are not *bhikkhus* and of the servants of the University and to make contributions to such fund out of the University Fund ; and
- (k) to do all such other acts incidental to the powers aforesaid as may be requisite in order to further the objects of the University.

PART II

THE DHARMAPITHADHIPATI AND THE OFFICERS OF THE UNIVERSITY

5. (1) The Dharmapithadhipati of the University shall be an *Upasampada bhikkhu* who has completed twenty years after *Upasampada*. TheDharma-pithadhipati.

(2) The Dharmapithadhipati shall be appointed by the Minister out of a panel of at least three names recommended by the Anusasaka Mandalaya.

(3) The Dharmapithadhipati shall be a whole-time officer of the University. He shall be a member and the Chairman of the Board of Education and Administration. He shall be entitled to convene all meetings of the Board of Education and Administration and shall preside at such meetings.

(4) It shall be the duty of the Dharmapithadhipati to secure that the provisions of this Act and of the Statutes and Rules are duly observed and he shall have and may exercise all such powers as he may deem necessary for the purpose.

(5) The Dharmapithadhipati shall give effect to the decisions made under this Act in regard to the administration of the University, and shall exercise general supervision over the educational arrangements of the University. He shall be responsible for the discipline of the University in accordance with this Act and the Statutes and Rules and shall exercise and perform such other powers and duties as may be conferred or imposed on him by this Act or by Statute or Rule.

(6) The Dharmapithadhipati shall hold office for a term of five years but may be reappointed in accordance with the provisions of this section.

(7) If any vacancy occurs in the office of Dharmapithadhipati or if the Dharmapithadhipati, by reason of leave, illness, or other cause, is unable, temporarily, to perform the duties of his office, the Minister may, within fourteen days of such vacancy or inability, make such arrangements as he may think fit for carrying on the office. Until such arrangements have been made, the Secretary of the University shall carry on the routine duties of the office.

The Secretary of the University.

6. (1) The Secretary shall be a whole-time officer of the University. He shall be the Secretary to the Anusasaka Mandalaya, to the Board of Education and Administration and to the Dayaka Mandalaya. He shall be the chief accounting officer of the University and shall be responsible for the proper administration of the moneys and properties of the University and in the performance of such duty he shall act in conformity with any decision or order made, or any direction given, by the Dayaka Mandalaya in respect of the administration of the funds and properties of the University. He shall exercise and perform all such powers and duties as may be conferred or imposed on him by this Act or by Statute or Rule. He shall, in addition, assist the Dharmapithadhipati whenever he is called upon to do so.

(2) Any fit person who professes Buddhism and who is not a *bhikkhu* may be appointed by the Minister as the Secretary of the University for such period as the Minister may determine:

Provided that an officer in the public service shall not be appointed as Secretary of the University except with the consent of that officer and the Secretary to the Treasury.

(3) The provisions of subsection (2) of section 18 of the Higher Education Act, No. 20 of 1966*, shall, *mutatis mutandis*, apply in relation to any officer of the public service who is appointed as Secretary of the University.

7. The Librarian shall be a whole-time officer of the University and he shall exercise and perform such powers and duties as may be prescribed by Statute or Rule. The Librarian.

8. (1) There may be appointed in accordance with the provisions of this Act and of the Statutes and Rules such number of officers as may be necessary for the purposes of the University. Other Officers.

(2) An officer appointed under this section shall exercise and perform all such powers and duties as may be prescribed by Statute or Rule.

PART III

THE UNIVERSITY AUTHORITIES

9. The Authorities of the University shall be— Authorities of the University.

- (i) the Anusasaka Mandalaya;
- (ii) the Board of Education and Administration; and
- (iii) the Dayaka Mandalaya.

10. (1) The Anusasaka Mandalaya shall consist of— The Anusasaka Mandalaya.

- (i) the Maha Nayaka Thera of the Malwatta Chapter of the Siamese Nikaya;
- (ii) the Maha Nayaka Thera of the Asgiriya Chapter of the Siamese Nikaya;
- (iii) the President of the Sri Lanka Amarapura Mahasangha Sabha;
- (iv) the Maha Nayaka Thera of the Ramanna Nikaya;
- (v) the Nayaka Thera of the Anuradhapura Atamasthana; and
- (vi) not more than three other *theras* nominated by the Minister.

(2) The Chairman of the Anusasaka Mandalaya shall be elected by the Anusasaka Mandalaya from among its

* Repealed by Act No. 1 of 1972, itself repealed by Act No. 16 of 1978.

members for the time being and shall hold office for three years from the date of such election ; he shall however be eligible for re-election to the office of Chairman.

(3) There shall be not less than three ordinary meetings of the Anusasaka Mandalaya in a year convened so that there shall be as nearly as may be at least one ordinary meeting every four months. A special meeting of the Anusasaka Mandalaya shall be convened by the Secretary of the University on a direction from the Chairman of the Mandalaya or the Minister or on a requisition made in that behalf and signed by not less than three members for the time being of the Anusasaka Mandalaya.

(4) The quorum for a meeting of the Anusasaka Mandalaya shall be three.

Powers, duties and functions of the Anusasaka Mandalaya.

11. Subject to the provisions of this Act and of the Statutes and Rules, the Anusasaka Mandalaya shall have and perform the following powers, duties and functions:—

- (a) to advise the Board of Education and Administration and the Dayaka Mandalaya on matters relating to the University;
- (b) to determine any such disputes on matters relating to the University as may arise between the Board of Education and Administration and the Dayaka Mandalaya; and
- (c) to do or perform any other act or duty authorized, or imposed upon the Anusasaka Mandalaya, by this Act.

The Board of Education and Administration.

12. (1) The Board of Education and Administration shall be the executive body of the University.

(2) Subject to the provisions of subsection (3) the Board of Education and Administration shall consist of—

- (a) the Dharmapithadhipati who shall be the Chairman of the Board of Education and Administration,

- (b) the Head of each Department of Study in the University;

- (c) six *bhikkhus* nominated by the Anusasaka Mandalaya;

- (d) the Chairman of the Dayaka Mandalaya;

- (e) the Librarian;

- (f) the Director-General of Education or an officer nominated in that behalf by the Director-General of Education provided, however, that the officer so nominated is a person who professes Buddhism ; and

- (g) the Director of Cultural Affairs.

(3) Where the Director-General of Education or the Director of Cultural Affairs is a person who does not profess Buddhism, the Minister shall, in place of the Director-General of Education or the Director of Cultural Affairs, as the case may be, nominate to the Board of Education and Administration an officer who holds a post of similar status and who professes Buddhism.

(4) In the absence of the Chairman of the Board of Education and Administration from any meeting of the Board, the members of the Board present at the meeting shall elect from their own number a Chairman for that meeting.

(5) The quorum for a meeting of the Board of Education and Administration shall be seven.

13. Subject to the provisions of this Act and of the Statutes and Rules, the Board of Education and Administration shall have and perform the following powers, duties and functions:—

Powers, duties and functions of the Board of Education and Administration.

- (a) to regulate and determine all matters concerning the educational organization of the University in accordance with this Act, the Statutes and Rules;

- (b) to regulate the admission of students to the University;

(c) to exercise such powers of the University as relate to— not otherwise provided for by this Act or by Statutes or Rules.

(i) the establishment of Departments of Study and the imparting of instruction;

(ii) the holding of examinations of the University;

(iii) the grant to, or the conferment on, persons of degrees, diplomas or other distinctions of the University;

(iv) the provision of post-graduate courses;

(v) the institution of teaching posts, the making of appointments thereto and the conditions of employment of teachers;

(vi) the maintenance of discipline in the University; and

(vii) the conferment of honorary degrees;

(d) to suspend or dismiss or otherwise punish any teacher of the University on the grounds of incapacity or conduct which renders him unfit to be a teacher of the University if a decision to the effect that he is so unfit is made by the Board of Education and Administration;

(e) to consider, amend or adopt the estimates of the University as prepared by the Dayaka Mandalaya:

Provided that any such amendment shall only be made at a joint meeting of the Board of Education and Administration and the Dayaka Mandalaya;

(f) to make Statutes and by Statute to amend, add to, alter or repeal any Statute; and

(g) to exercise all other powers of the University, the exercise of which is

14. A member of the Board of Education and Administration who is not a *bhikkhu* may be present at any meeting of the Board where any matter—

(a) relating to the conduct or capacity of a teacher of the University; or

(b) relating to the conduct—

(i) of any graduate of the University, or

(ii) of any person who is the holder of a diploma or other distinction granted or conferred by the University and who is a *bhikkhu*, or

(iii) of any student of the University who is a *bhikkhu*,

is discussed and may take part in the discussion but he shall not participate in the decision of the Board on such matter by voting thereon.

15. (1) Subject to the provisions of subsection (2), the Dayaka Mandalaya shall consist of—

(a) nine members nominated by the Minister from persons who profess Buddhism and who are not *bhikkhus*; and

the Director of Cultural Affairs.

(2) Where the Director of Cultural Affairs is a person who does not profess Buddhism, the Minister shall, in place of the Director of Cultural Affairs, nominate to the Dayaka Mandalaya an officer who holds a post of similar status and who professes Buddhism.

(3) The Minister shall appoint one of the members of the Dayaka Mandalaya nominated by him as the Chairman of the Dayaka Mandalaya.

Restrictions on voting by certain members of the Board of Education and Administration on certain matters.

The Dayaka Mandalaya.

(4) The Minister may, without assigning any reason, remove from office the Chairman of the Dayaka Mandalaya or any member of the Dayaka Mandalaya nominated by him,

(5) In the absence of the Chairman of the Dayaka Mandalaya from any meeting of the Dayaka Mandalaya, the members of the Dayaka Mandataya present at the meeting shall elect from among their own number a Chairman for the meeting.

(6) The quorum for a meeting of the Dayaka Mandalaya shall be five.

Powers- duties and functions of the Dayaka Mandalaya,

16. Subject to the provisions of this Act and the Statutes and Rules, the Dayaka Mandalaya shall have and perform the following powers, duties and functions :—

- (a) to administer the moneys and properties of the University and to invest any moneys belonging to the University, including any unapplied income, in any security in which under the provisions of section 20 of the Trusts Ordinance or of any written law, it is lawful to invest trust moneys; or with the approval of the Minister in charge of the subject of Finance, to invest any such moneys in the purchase of immovable property in Sri Lanka or vary such investments; or to place on fixed deposit in any bank approved by the Minister in charge of the subject of Finance any portion of such moneys not required for immediate expenditure;
- (b) to appoint officers of the University whose appointments are not otherwise provided for and servants of the University, to determine all matters relating to their conditions of employment and to suspend or dismiss or otherwise punish any such officer or servant on the grounds of incapacity or conduct which, in the opinion of the members of the Dayaka Mandalaya, renders him unfit to be an officer or a servant of the University;

- (c) to manage Halls of Residence for the residence of the students of the University;
- (d) to make such provision as may be necessary to enable a teacher of the University to maintain a standard of life as befits his position;
- (e) to provide teachers of the University with facilities for such travel as is necessitated by their work in the University;
- (f) to receive and accept bequests, donations and grants of any property to the University;
- (g) to prepare the financial estimates of the University;
- (h) to consider the annual accounts of the University and cause such accounts to be audited by an auditor appointed by the Auditor-General and when audited, to be published in the Gazette ; and
- (i) to deal with all financial matters pertaining to the University.

17. No act or proceeding of any Authority shall be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment or nomination of a member thereof.

Vacancy in. or defect in appointment or nomination of, a member of an Authority not to invalidate any act of the Authority.

PART IV

STATUTES AND RULES

18. (1) Subject to the provisions of this Statutes. Act, Statutes may be made by the Board of Education and Administration providing for all or any of the following matters :—

- (a) the conditions of appointment and emoluments of the teachers, officers and servants of the University and the powers and duties of such teachers and officers;
- (b) the organization of the different Departments of Study;

BUDDHA SRAVAKA DHARMAPITHAYA [Cap. 386

- (c) the admission of students to the University;
- (d) the discipline of students;
- (e) the courses of study for the different degrees and diplomas of the University;
- (f) the conditions under which students shall be admitted to the degree or diploma courses and to the University examinations and be eligible for degrees and diplomas ;
- (g) the procedure of Convocations of the University for the grant or conferment of degrees, diplomas or other distinctions;
- (h) the conditions and mode of appointment, the duties and the emoluments of examiners and the conduct and standard of examinations;
- (i) the administration of the moneys and properties of the University ;
- (j) matters connected with the exercise and performance of the powers, duties and functions of the Dayaka Mandalaya; and
- (k) matters for which Statutes are required or permitted by this Act to be made or matters connected with the exercise or performance of the powers, duties or functions of the Board of Education and Administration.

(2) It shall be lawful by Statute to add to, amend, alter or repeal any Statute for the time being in force,

(3) No Statute shall take effect until it is approved by the Minister and published in the Gazette.

19. (1) Subject to the provisions of this Act and of the Statutes, the Authorities of the University may make Rules providing—

- (a) for all matters of procedure at the meetings of such Authorities, for the holding of their meetings, for

the keeping of their records and generally for all other matters relating to their business; and

- (b) for all matters for which Rules are required or permitted by this Act to be made.

(2) It shall be lawful by Rule to add to, amend, alter or repeal any Rule for the time being in force.

PART V

EXAMINATIONS AND COURSES OF STUDY

20. All examinations held by the University shall be conducted in such manner as shall be prescribed by Statute. Examinations.

21. (1) No person shall be eligible for admission to a course of study for a degree of the University unless— Admissions and period of study for graduation.

- (a) he is a *bhikkhu*,
- (b) he has for at least three academic years been a whole-time student in any such Pirivena as is approved for the purposes of this section by the Board of Education and Administration, and
- (c) has passed the Preliminary Examination of the Oriental Studies Society in Sinhala, Pali and Sanskrit or an equivalent or higher examination in the same subjects-

22. (1) Any male person, whether he is a *bhikkhu* or not, shall, subject to the Statutes, be eligible for admission to a post-graduate course at the University— Post-graduate courses.

- (a) if he has obtained a degree of the University, or
- (b) if he has obtained a degree at any other University in the subject or subjects relevant to the post-graduate course, such other University being a University the examinations of which are recognized as equivalent to the examinations of the University.

Rules.

(2) The number of persons, other than *bhikkhus*, admitted to follow post-graduate courses in the University shall not, at any time, exceed twenty-five.

PART VI

PROVISIONS RELATING TO TEACHERS OF THE UNIVERSITY

Appointment of teachers,

23. (1) No person who is not a *bhikkhu* shall be appointed to the permanent staff of the University as a teacher.

(2) A male person who is not a *bhikkhu* may be appointed as a visiting teacher.

(3) Every appointment to a post of teacher in the University shall be made by the Board of Education and Administration after considering the recommendation of a Board of Selection, the members of which shall be—

- (i) the Dharmapithadhipati,
- (ii) two members appointed by the Board of Education and Administration from among its own body,
- (iii) the Director-General of Education or an officer nominated by him in that behalf, and
- (iv) the Director of Cultural Affairs.

Remuneration of teachers, officers and servants.

24. (1) A *bhikkhu* who is appointed to any post in the University shall not be paid any emoluments. The Dayaka Mandalaya shall, in respect of such *bhikkhu*, make such provision as may be necessary to enable him to maintain a standard of life befitting his position. Any expenses incurred in that behalf by the Dayaka Mandalaya shall be charged to the University Fund.

(2) Persons, other than *bhikkhus*, in the employ of the University may be paid such emoluments as may be determined by Statute.

PART VII

FINANCIAL PROVISIONS

Financial year.

25. The financial year of the University shall be the same as the financial year of the Government.

26. There shall be a fund to be called the University Fund, into which shall be paid—

- (a) the income from endowments made to the University;
- (b) moneys provided by Parliament as grants in aid of the University ; and
- (c) all other moneys belonging to the University from whatsoever source derived.

27. (1) The Deputy Secretary to the Treasury shall, as soon as may be after the commencement of each financial year, pay to the University such moneys as may be provided by Parliament under the annual Appropriation Act as a grant in aid of the University.

(2) The Deputy Secretary to the Treasury shall, from time to time, pay to the University such moneys as may be provided by Parliament, by way of a supplementary vote or otherwise, as a grant in aid of the University.

(3) All moneys paid under the preceding subsections of this section to the University shall be applied or expended by the University for all or any of the purposes authorized by or under this Act.

28. It shall be the duty of the Secretary of the University—

- (a) to keep the accounts of the University in such form as the Dayaka Mandalaya shall, after consultation with the General Treasury, from time to time direct;
- (b) to receive all moneys paid to the University Fund and to credit such moneys to the proper heads of account;and
- (c) to make all authorized payments :

Provided that income derived from grants made for specific purposes, or from endowments for specific objects, shall be separately accounted for in the accounts of the University, and that no payments shall be made from such income for the general purposes of the University or for any purposes or objects other than those for which such grants or endowments were respectively made.

Grants in aid of the University.

Secretary of the University to keep accounts.

Audit of accounts.

29. (1) The accounts of the University shall be annually audited by the Auditor-General.

(2) For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor or auditors who shall act under his direction and control.

(3) The Auditor-General and any person assisting him in the audit of the accounts of the University shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the University as the Auditor-General may consider necessary for the purposes of the audit, and shall be furnished by the Secretary of the University or any other officer of the University with such information within his knowledge as may be required for such purposes.

(4) For the purpose of meeting the expenses incurred by him in the audit of the accounts of the University, the Auditor-General shall be paid from the University Fund such remuneration as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance. Any remuneration received by the Auditor-General under this subsection shall, after deducting any sums paid by him to any qualified auditor or auditors employed by him for the purposes of such audit, be credited to the Consolidated Fund.

(5) For the purposes of this section, the expression " qualified auditor " means—

- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute ; or
- (b) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute.

30. (1) The Auditor-General shall examine the accounts of the University and furnish a report—

- (a) stating whether he has or has not obtained all the information and explanations required by him;
- (b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the University; and
- (c) drawing attention to any item in the accounts which in his opinion may be of interest to Parliament.

(2) The Auditor-General shall transmit his report to the Dayaka Mandalaya.

(3) On receipt of the Auditor-General's report by the Dayaka Mandalaya, the Mandalaya shall consider the report and shall transmit a copy thereof to the Minister, together with a copy of the statement of accounts to which the report relates and the observations of the Mandalaya on the report; and the Mandalaya shall also cause such report and statement to be published in the Gazette-

(4) The Minister shall lay copies of the report and statement referred to in subsection (3) before Parliament.

31. (1) The annual financial estimates prepared by the Dayaka Mandalaya shall, before the first day of June of each preceding year, be sent to the Secretary to the Ministry.

(2) In the case of necessity and in order to meet unforeseen expenditure, it shall at any time be lawful for the Dayaka Mandalaya to prepare supplementary estimates of expenditure.

PART VIII

MISCELLANEOUS

32. No person shall reside within the University precincts unless he—

- (a) is a *bhikkhu*, or

Auditor-General's report.

Financial estimates.

Restriction on residence within University precincts.

(b) is a servant in a Hall of Residence of the University.

Prohibition of undesirable persons from entering precincts.

33. (1) Where the presence of any person in the University precincts is undesirable, the Secretary of the University after giving such person an opportunity of being heard, may, with the consent of the Board of Education and Administration, by writing under the hand of the Secretary served on such person, prohibit such person from entering or remaining within the University precincts or within such part thereof as may be specified in such writing. Such prohibition shall be and remain in force until revoked by the Secretary with the consent of the Board of Education and Administration.

(2) A certificate under the hand of the Secretary of the University to the effect that any person named in the certificate has been prohibited, in accordance with the provisions of subsection (1), from entering or remaining within the University precincts or any specified part thereof, shall be received and accepted by a court of law as evidence of the facts stated in such certificate until the contrary is proved.

(3) A document purporting to be a certificate issued by the Secretary of the University and to be signed by him shall be received in evidence, and shall, until the contrary is proved, be deemed to be a certificate issued by the Secretary under subsection (2).

(4) Any person who is prohibited under the provisions of subsection (1) from entering or remaining within the University precincts or part thereof and who, without reasonable cause, enters or remains within such precincts or part thereof in contravention of such prohibition shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine of one hundred rupees in respect of each day on which he has entered or during which he has remained within such precincts or part thereof.

(5) An offence under subsection (4) shall be cognizable and bailable within the meaning of those terms as defined in the Code of Criminal Procedure Act.

34. (1) If the Minister is of the opinion that there is sufficient proof that the Dharmapithadhipati or any Authority, other than the Anusasaka Mandalaya, has acted in a manner detrimental to the interests of the University, the Minister may, by Order in writing—

Removal of Dharnapithadhipati from office and dissolution of an Authority.

(a) remove the Dharmapithadhipati from office, or

(b) dissolve such Authority,

as the case may be.

(2) Where the Minister under subsection (1) removes the Dharmapithadhipati from office, he may by the same or subsequent Order appoint a fit and proper person to exercise and perform the powers, duties and functions of the Dharmapithadhipati; and the Minister may from time to time, by Order in writing remove or replace the person so appointed.

(3) The person appointed under subsection (2) may, until a new Dharmapithadhipati is duly appointed, exercise and perform all the powers, duties and functions of the Dharmapithadhipati.

(4) Where the Minister under subsection (1) dissolves any Authority, he may by the same or subsequent Order appoint a fit and proper person or two or more such persons to exercise and perform the powers, duties and functions of that Authority; and the Minister may from time to time, by Order in writing remove or replace any person so appointed.

(5) Any person or persons appointed under subsection (4) to exercise and perform the powers, duties and functions of an Authority dissolved under subsection (1) may, until a new Authority is duly constituted, exercise and perform all the powers, duties and functions of the Authority which was dissolved. Such new Authority shall not be constituted until a direction in that behalf is given by the Minister.

35. The degrees, diplomas and other distinctions which the University may grant to, or confer upon, persons who have

Degrees, diplomas and other distinctions.

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pursued approved courses of study in the University shall be such degrees, diplomas or other distinctions as may be determined by Statute.

Deprivation of degree, &c., in certain circumstances.

36. (1) Where a *bhikkhu* who has received any degree, diploma or other distinction of the University ceases to be a *bhikkhu*, he shall be deprived of such degree, diploma or other distinction and of all the privileges of the University which he enjoys.

(2) Where a person who has received a degree, diploma or other distinction of the University is convicted of any crime or offence involving moral turpitude or is guilty of scandalous conduct, it shall be lawful for the Dharmapithadhipati, on the recommendation made by the Board of Education and Administration after a decision to make such recommendation is taken by not less than two-thirds of the members of that Board entitled under this Act to make such decision, to deprive such person of any degree, diploma or other distinction granted to, or conferred upon, such person and of all the privileges of the University which he enjoys.

Special provisions for *bhikkhus* after retirement.

37. Where a *bhikkhu* who is employed as a teacher or an officer of the University retires after a period of not less than ten years' service in the employ of the University, the Dayaka Mandalaya may make such provision for the future as may be necessary to enable him to maintain a standard of life befitting his position; and any expenses incurred in that behalf by the Dayaka Mandalaya shall be charged to the University Fund.

Alteration of seal.

38. The seal of the University may be altered in such manner as may be determined by the Board of Education and Administration.

PART IX

INTERPRETATION

interpretation.

39. In this Act unless the context otherwise requires—

"Anusasaka Mandalaya" means the Anusasaka Mandalaya constituted

in accordance with the provisions of section 10;

"Authorities" means the Authorities of the University mentioned in section 9;

"*bhikkhu*" means a *bhikkhu*, whether *Upasampada* or *Samanera*, who has been registered as such according to section 41 of the Buddhist Temporalities Ordinance;

"Board of Education and Administration" means the Board of Education and Administration constituted in accordance with the provisions of section 12;

"Dayaka Mandalaya" means the Dayaka Mandalaya constituted in accordance with the provisions of section 15;

"Minister" means the Minister who is for the time being in charge of the subject of Higher Education and "Ministry" shall be construed accordingly;

"officer" means the Secretary of the University or the holder of any post or office in the University but does not include a teacher or a servant;

"Rule" means any Rule made by an Authority in accordance with the provisions of this Act;

"Statute" means any Statute made by the Board of Education and Administration in accordance with the provisions of this Act;

"teacher" includes a Professor, a Lecturer and any other person imparting full-time instruction in the University;

"University" means the University established under section 2;

"University precincts" means the site on which the University has its seat.

CHAPTER 458

BADULLA SAIVA PARIPALANA SANGAM

Act No. 24 of 1954. AN ACT TO INCORPORATE THE BADULLA SAIVA PARIPALANA SANGAM.

[24th March, 1954]

Short title. **1.** This Act may be cited as the Badulla Saiva Paripalana Sangam Act.

Incorporation of the Badulla Saiva Paripalana Sangam. **2.** From and after the passing of this Act the president, vice-presidents, and members of the executive committee for the time being of the Badulla Saiva Paripalana Sangam and such and so many persons as now are members of the said Badulla Saiva Paripalana Sangam, or shall hereafter be admitted members of the corporation hereby constituted, shall be and become a corporation with continuance for ever under the style and name of "The Badulla Saiva Paripalana Sangam" and by that name shall and may sue and be sued in all courts, with full power and authority to have and use a common seal and alter the same at their pleasure-

General objects of the corporation. **3.** The general objects for which the corporation is constituted are hereby declared to be—

- (i) promotion of solidarity and welfare of the Hindus;
- (ii) propagation of the principles of Hinduism and inculcation of a spirit of harmonious understanding among the people;
- (iii) the religious, social and literary advancement of the people in general, and in particular, the development of Tamil literature and culture.

Executive committee. **4.** (1) The affairs of the corporation shall, subject to the rules in force for the time being of the corporation as hereinafter provided, be administered by an executive

committee consisting of the president, two vice-presidents, the honorary general secretary, the honorary treasurer respectively of the corporation and not less than fifteen other members, to be elected respectively in accordance with rules for the time being of the corporation.

(2) All members of the corporation shall be subject to the rules in force for the time being of the corporation.

(3) The first executive committee shall consist of Mr. K. S. Ratnasamy, Mr. R. Sivananajothy, Mr. K. Vallipuram, Mr. S. Arumugarajah, Mr. E. Seevaratnam, Mr. T. Kandasamy, Mr. V. K. Karalasingham, Mr. K. Singaram, Mr. T. Balasingham, Mr. R. Muthiah, Mr. A. M. Thillainathan, Mr. V. Ponnampalam, Mr. K. Ramanathan, Mr. N. Sinniah, Mr. K. Sinniah, Mr. S. S. Nadarajah, Mr. K. Gopaldasamy, Mr. K. Tharmalingam, Mr. N. Pasupathipillai, Mr. M. Shanmugam, Mr. P. Kanagaratnam, Mr. S. Sivanayagam, Mr. A. K. Kandasamy.

5. It shall be lawful for the corporation from time to time at any general meeting of the members, and by a majority of votes to make rules for the admission, withdrawal, or expulsion of members; for the conduct of the duties of the executive committee and of the various officers, agents, and servants of the corporation; for the procedure in the transaction of business; and otherwise generally for the management of the affairs of the corporation and the accomplishment of its objects. Subject to the provisions of section 7, such rules may, at such a general meeting, be amended, added to or repealed,

Power to make rules-

Rules in the Schedule* to be the rules of the corporation.

6. Subject to the provisions of section 5, the rules set out in the Schedule* to this Act shall for all purposes be the rules of the corporation:

shall be independent of the signing of any person as a witness.

Provided, however, that nothing in this section contained shall be deemed or construed to prevent the corporation at any general meeting from making fresh rules, or from amending, adding to or repealing any of the rules set out in such Schedule*.

10. The corporation shall be able and capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the corporation for the purposes of this Act and subject to the rules for the time being of the said corporation, with full power to sell, mortgage, lease, exchange, or otherwise dispose of the same for the purposes of the Act:

Corporation may hold property, movable and immovable.

Amendment, &c., of rules.

7. No rule in the Schedule* to this Act nor any rule hereafter passed at a general meeting, shall be amended, added to or repealed, except with the prior approval of the executive committee and by a vote of two-thirds of the members present at a general meeting of the corporation.

Provided that every disposition affecting movable property not exceeding the value of one thousand rupees shall have the consent of at least two-thirds of the members of the executive committee present at a duly convened meeting and provided further that every disposition affecting movable property of over the value of one thousand rupees or immovable property shall have in addition to the consent aforesaid of the executive committee the consent of at least two-thirds of the members present at a general meeting of the corporation specially convened for the purpose.

Debts due by and payable to Sangam.

8. All debts and liabilities of the said Badulla Saiva Paripalana Sangam existing at the time of the coming into operation of this Act shall be paid by the corporation hereby constituted, and all debts due to and subscriptions and contributions payable to the said Badulla Saiva Paripalana Sangam, shall be paid to the said corporation for the purposes of this Act.

How the seal of the corporation is to be affixed.

9. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of two of the members of the executive committee, who shall sign their names to the instrument in token of their presence, and such signing

11. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

• Schedules omitted.—Private enactment.

CHAPTER 451

BACK TO THE BIBLE BROADCAST

Act. AN ACT TO INCORPORATE AN ASSOCIATION CALLED AND KNOWN AS THE 'BACK TO THE
No. 17 of 1972. BJBLE BROADCAST, CEYLON ".

[3rd May. 1972.]

Short title. 1. This Act may be cited as the Back to the Bible Broadcast, Ceylon, Act.

(d) to establish and maintain contact with other institutions, whether in Sri Lanka or not, having objects similar to those of the Corporation and affiliate any such institutions to the Corporation.

Incorporation. 2. From and after the date of passing of this Act, the members for the time being of the " Back to the Bible Broadcast, Ceylon " and such or so many persons as now are members of the said " Back to the Bible Broadcast, Ceylon" or shall hereafter be admitted members of the Corporation hereby constituted, shall be and become a corporation with continuance for ever under the style and name of " Back to the Bible Broadcast, Ceylon " (hereinafter in this Act referred to as " the Corporation ") and by that name shall and may sue and be sued in all Courts with full power and authority to have and use a common seal and to alter or vary the same at its discretion.

4. The Corporation shall be able and capable in law to receive and hold property, both movable and immovable, upon or by virtue of any purchase, exchange, lease, grant, gift or upon or by virtue of any testamentary disposition or otherwise; and all such property shall be held by the Corporation for the purposes of this Act and subject to the rules for the time being of the said Corporation with full power (subject to any trust attaching to such property and to the law regulating such trust) to sell, mortgage, lease, exchange or otherwise dispose of the same, and to invest its funds in such manner as may be necessary or expedient.

Powers of the Corporation to hold property.

General objects of the Corporation. 3. The general objects for which the Corporation is constituted are hereby declared to be:—

(a) to teach the message of the Holy Scriptures by means of radio, literature, Bible correspondence courses, Bible classes and other educational media;

5. The Corporation shall have the power to do, perform and execute all such acts, matters and things whatsoever as are necessary or desirable for the promotion or furtherance of the objects of the Corporation or any one of them including, but without prejudice to the generality of the foregoing, the power to open, operate and close bank accounts (whether current or fixed), to borrow or raise moneys with or without security, to engage, employ and dismiss personnel required for the carrying out of the objects of the Corporation and to remunerate any such persons at such rates and in such manner as it may think fit.

General powers of the Corporation.

(b) to print, publish and distribute books, booklets, papers, journals, magazines, newspapers, circulars and other reading material in connexion with the objects of the Corporation as may be considered necessary or desirable;

(c) to promote and to hold Bible conferences and meetings and to disseminate information relating to the Christian faith:

6. All the debts and liabilities of the said Back to the Bible Broadcast, Ceylon, existing at the time of the coming into

Debts, &c., due by and payable to the corporation.

operation of this Act shall be paid by the Corporation hereby constituted and all debts due to and subscriptions and contributions payable to the said Back to the Bible Broadcast, Ceylon, shall be paid to the Corporation hereby constituted.

Board of Directors of the Corporation.

7. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation, be administered by a Board of Directors consisting of the President, Vice-President, Secretary and Treasurer and such other person or persons as may be elected or appointed in accordance with the rules for the time being of the Corporation.

(2) The Board of Management holding office on the date of commencement of this Act shall be the first Board of Directors of the Corporation.

(3) The Board of Directors may from time to time appoint one or more of the members of the Board to be the holder of any executive office including the office of Managing Director or Manager on such terms and for such period as they may determine. The Board may also appoint any person as Technical Director on such terms and conditions as the Board thinks fit but no such appointee shall vote at any meetings of the Board unless by the terms of appointment the appointee is given the right to vote. Any person appointed to an executive office including the office of Technical Director may be removed by the Board at any time.

(4) The Board of Directors may entrust to and confer upon any member of the Board appointed to hold any executive office or the office of Technical Director any of the powers exercisable by the Board of Directors upon such terms and conditions and for such period as they may think fit and either collaterally with or to the exclusion of their own powers and may from time to time revoke, withdraw, alter or vary all or any of such powers.

(5) Any member of the Board of Directors appointed to any executive office and- the Technical Director shall receive

such remuneration as the Board of Directors may determine.

8. (1) It shall be lawful for the Corporation from time to time at any General Meeting of the members and by a majority of two-thirds of the members present and voting at such General Meeting to make rules for the admission, retirement, withdrawal or expulsion of members, for the conduct of the duties of the Board of Directors, and of the various officers, agents and servants of the Corporation, for the procedure to be followed in the transaction of business, and otherwise generally for the management, control and conduct of the affairs of the Corporation and the accomplishment of the objects of the Corporation. Such rules when made may at a like meeting be altered, added to, amended, cancelled, modified or varied subject to the requirements of subsection (4) hereof.

Rules of the Corporation.

(2) Subject to the provisions in the preceding subsection contained, the rules set forth in the Schedule* hereto shall for all purposes be the rules of the Corporation:

Provided, however, that nothing in this subsection contained shall be held or construed to prevent the Corporation at any time hereafter from making or adopting fresh rules, or from deleting, amending, adding to, or cancelling or modifying or varying any of the rules in the Schedule* or to be hereafter made by the Corporation from time to time.

(3) All members of the Corporation shall be subject to the rules in force for the time being of the Corporation.

(4) No rule in the Schedule* hereto nor any rule hereafter passed at a General Meeting shall be altered, added to, amended or cancelled, modified or varied except by a vote of two-thirds of the members present and voting at a General Meeting of the Corporation provided that such amendment shall have been previously approved by the Board of Directors.

* Schedule omitted.—Private enactment.

Non-payment of dividends and profits.

9. The income and property of the Corporation shall be applied solely towards the promotion or the furtherance of the objects of the Corporation and no part or portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to the members of the Corporation; but nothing herein contained shall prohibit the payment of remuneration to any employee of the Corporation (whether or not such employee is a member of the Corporation) or the payment of any remuneration or fee to any member of the Corporation for services rendered by him to the Corporation, or the payment of any interest on any loans, or the payment or reimbursement of expenses incurred in and about the management of the affairs of the Corporation whether by a member of the Board of Directors or otherwise.

10. No member of the Corporation or the Board of Directors shall be personally liable for the debts, liabilities or obligations of the Corporation.

Members of the Corporation and Board of Directors not personally liable.

11. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of two members of the Board of Directors for the time being of the Corporation who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

How seat of the Corporation is to be affixed.

12. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of other persons, except such as are mentioned in this Act and those claiming by, from, or under them.

Saving of rights of the Republic and others.

CHAPTER 184

BUSINESS UNDERTAKINGS (ACQUISITION)

Acts
Nos.35 of 1971,
21 of 1980.

AN ACT TO PROVIDE FOR THE ACQUISITION FOR THE GOVERNMENT, WHETHER BY AGREEMENT OR COMPULSORILY, OF ANY BUSINESS UNDERTAKING/FOR THE REQUISITIONING OR COMPULSORY ACQUISITION OF ANY PROPERTY NECESSARY FOR THE PURPOSES OF THAT UNDERTAKING AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO,

[1 st October. 1971.]

Short title.

1. This Act may be cited as the Business Undertakings (Acquisition) Act.

(4) Subject to the provisions of subsection (5), a primary vesting Order shall be final and conclusive and shall not be called in question in any court whether by way of writ or otherwise.

Acquisition by Government of any business undertaking.

2. (1) The Minister in charge of the subject of Finance of his own motion or at the request of any other Minister—

(5) Where Parliament refuses to approve a primary vesting Order made in respect of any business undertaking, that undertaking shall be deemed never to have vested in the Government by virtue of that vesting Order and any question which may arise as to any right, title or interest in or over such undertaking shall be determined accordingly.

(a) may direct in writing the Secretary to the Treasury to acquire on behalf of the Government by agreement any such business undertaking as shall be specified in such direction; or

(b) may, by Order (hereafter in this Act referred to as a " primary vesting Order ") published in the Gazette, vest in the Government with effect from such date (hereafter in this Act referred to as the " primary vesting date ") as shall be specified in the vesting Order any such business undertaking as shall be so specified.

3. Where any business undertaking is acquired by or vested in the Government, there shall be appointed a competent authority or more than one such authority to manage and administer the affairs of that undertaking.

Appointment of competent authority to manage and administer the affairs of any business undertaking acquired by or vested in the Government.

(2) Where any business undertaking is acquired by the Government by agreement or is vested in the Government by a primary vesting Order, the Government shall, with effect from the date of transfer or the primary vesting date, as the case may be, have absolute title to such business undertaking free from all encumbrances.

4. (1) Subject to the provisions of subsection (2), where any business undertaking is acquired by or vested in the Government, all the rights and liabilities under any contract or agreement which relates to the purposes of that undertaking and which subsists on the date of transfer or on the primary vesting date of that undertaking shall vest in the Government.

Special provisions relating to the rights and liabilities of any business undertaking acquired by or vested in the Government.

(3) A primary vesting Order shall be laid before Parliament within sixty days of the publication of the vesting Order in the Gazette, and if Parliament is not in session, within fifty days of the commencement of the session next ensuing, by a motion that such Order be approved.

(2) The Minister in charge of the subject of Finance may at any time repudiate the liabilities under any contract or agreement referred to in subsection (1) if he is of opinion that such liabilities were incurred *mala fide*. dishonestly or fraudulently.

Notice of the repudiation shall be given by the competent authority to the parties to the contract or agreement.

(3) Where the Minister in charge of the subject of Finance under subsection (2) repudiates the liabilities under any contract or agreement such liabilities shall be deemed never to have vested in the Government.

(4) For the purposes of this section, "liabilities" shall not include any loan repayable to a director of any business undertaking which is acquired by or vested in the Government or to any member of the family of such director.

5. Where a business undertaking is acquired by or vested in the Government under this Act, the competent authority appointed under section 3 to manage and administer the affairs of that undertaking shall take possession of the property of that business undertaking.

6. A competent authority in the discharge of his functions and in the exercise of his powers shall be subject to such general or special directions as the Minister in charge of the subject of Finance in consultation with the relevant Minister may issue from time to time.

7. (1) The proprietor of any business undertaking who is aggrieved by a primary vesting Order made in respect of that undertaking may, within fifteen days after the date of that vesting Order, appeal to the Minister in charge of the subject of Finance against such vesting Order.

(2) The Minister in charge of the subject of Finance may refer an appeal made to him under subsection (1) to an Advisory Board consisting of such number of persons being not less than three as the President may appoint and such Advisory Board shall advise the Minister on the question whether the primary vesting Order to which the appeal relates should be revoked.

(3) The Minister may, after considering the advice tendered to him by the Advisory Board, revoke the primary vesting Order in respect of which the appeal was made.

8. (1) For the purposes of any business undertaking acquired by or vested in the Government, the Minister in charge of the subject of Finance of his own motion or at the request of the relevant Minister may, by Order (hereafter in this Act referred to as a "subsidiary vesting Order") published in the Gazette, vest in the Government with effect from such date as shall be specified in the Order, any movable or immovable property specified in the Order.

(2) Before a subsidiary vesting Order takes effect, the Minister in charge of the subject of Finance in consultation with the relevant Minister from time to time may alter, by Order published in the Gazette, the date on which such subsidiary vesting Order takes effect.

(3) A subsidiary vesting Order shall have the effect of giving the Government absolute title to any property specified in the Order with effect from the date specified therein and free from all encumbrances.

(4) A subsidiary vesting Order vesting any property in the Government for the purposes of any business undertaking of the Government shall have the effect of authorizing the competent authority managing and administering the affairs of that business undertaking to take possession of that property.

(5) A subsidiary vesting Order made in respect of any property shall be final and conclusive and shall not be called in question in any court whether by way of writ or otherwise.

9. (1) Notwithstanding that any movable or immovable property has vested in the Government by virtue of a vesting Order, the Minister in charge of the subject of Finance of his own motion or at the request of the relevant Minister may, at any time by subsequent Order (hereafter in this Act referred to as a "divesting Order") published in the Gazette, amend that vesting Order by the exclusion therefrom of that property.

(2) The following provisions shall apply where any property is excluded from a vesting Order by a divesting Order made

Compulsory transfer to the Government of certain property.

Amendment of vesting Order insofar as it relates to any property vested in the Government-

Taking possession of property acquired by or vested in the Government.

Minister's directions to a competent authority.

Appeals.

under subsection (1)—

- (a) that property shall be deemed never to have vested in the Government by virtue of that vesting Order and any question which may arise as to any right, title or interest in or over that property shall be determined accordingly;
- (b) that property shall be deemed to have been and to be property which was requisitioned by a requisitioning Order with effect from the date on which that vesting Order took effect and was derequisitioned by a derequisitioning Order with effect from the date of the amendment of the vesting Order under subsection (1).

Requisitioning of property,

10. (I) For the purposes of any business undertaking acquired by or vested in the Government under this Act, the Minister in charge of the subject of Finance at the request of the relevant Minister may by order (in this Act referred to as a "requisitioning Order") published in the Gazette requisition, with effect from such date as shall be specified in the Order, any movable or immovable property specified in the Order.

(2) A requisitioning Order made under subsection (1) in respect of any property required for the purposes of any business undertaking shall have the effect of authorizing the competent authority managing and administering the affairs of that business undertaking to take possession of the property specified in the Order and to use such property for the purposes of that business undertaking.

(3) Where any property is requisitioned by a requisitioning Order, the Minister in charge of the subject of Finance of his own motion or at the request of the relevant Minister may, by Order (in this Act referred to as a "derequisitioning Order") published in the Gazette, derequisition such property with effect from such date as shall be specified in the derequisitioning Order.

(4) Before a derequisitioning Order takes effect, the Minister in charge of the subject of Finance may from time to time

alter, by Order published in the Gazette, the date on which such derequisitioning Order takes effect.

(5) Where, immediately before the date on which any property is requisitioned under this Act, a person, other than the owner of such property, was entitled to possession of or to any other right, title or interest in such property under the terms of any arrangement, agreement (formal or informal), lease or notarially executed instrument, that arrangement, agreement, lease or notarially executed instrument shall be deemed for all purposes to have expired on that date.

(6) Where any property is derequisitioned by a derequisitioning Order, such Order shall be deemed to have the effect of reviving any arrangement, agreement, lease or notarially executed instrument subsisting on the date on which the property was requisitioned, and any question which may arise as to any right, title or interest in or over that property shall be determined accordingly.

(7) Where any property requisitioned for the purpose of any business undertaking is permanently required for the purposes of that undertaking, the Minister in charge of the subject of Finance of his own motion or at the request of the relevant Minister may, by a subsidiary vesting Order made under section 8, vest such property in the Government.

11. (I) Where a business undertaking is transferred to or vested in the Government under this Act, the Minister in charge of the subject of Finance may by order in writing direct any bank in which the person, who immediately prior to the date of transfer or the primary vesting date was the proprietor of that undertaking, has a bank account not to permit him to operate that account or to permit him to operate such account in accordance with the terms and conditions specified in the order.

Power of Minister in charge of subject of Finance to direct a bank in which the proprietor of any business undertaking has an account not to permit him to operate such account.

(2) Where a written order under subsection (1) is issued to a bank in respect of a bank account, it shall be the duty of the manager of that bank to take all necessary steps to ensure that such bank account is

not operated by anyone, or is operated in accordance with the provisions of that order, as the case may be.

(3) Where a written order under subsection (1) has been issued in respect of the person who was the proprietor of a business undertaking prior to the date of transfer or the primary vesting date of that undertaking and the Minister in charge of the subject of Finance is satisfied—

- (a) that no moneys are due from that person to any other person who prior to the transfer or vesting was employed in that business undertaking; or
- (b) that that person has paid, or has made adequate arrangements to pay within such period as the Minister in charge of the subject of Finance may determine—
 - (i) all moneys due from that person to persons who were employed by him in that business undertaking,
 - (ii) all moneys due from that person to the Government or to any public corporation, and
 - (iii) all moneys due from that person on account of income tax imposed under any written law providing for the imposition of such tax,

the Minister in charge of the subject of Finance may vary or cancel the written order issued under subsection (1).

For the purposes of this subsection, "public corporation" means any corporation, board or other body which was or is established by or under any written law other than the Companies Ordinance,* with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise.

Regulations.

12. (1) The Minister in charge of the subject of Finance may, of his own motion or at the request of the relevant Minister,

make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act in relation to any business undertaking acquired by or vested in the Government. Such regulations may contain such incidental, consequential and supplementary provisions as may be necessary or proper for giving full effect to the principles and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister in charge of the subject of Finance of his own motion or at the request of the relevant Minister may, in relation to any business undertaking acquired by or vested in the Government, make regulations in respect of the following matters:—

- (a) the management and administration of the affairs of that undertaking ;
- (b) the term of office and the powers and duties of a competent authority;
- (c) the payments to be made in respect of any business undertaking or property acquired or requisitioned by or vested in the Government and any matter regarding the assessment of the amount of the payments and mode of making such payments; and
- (d) the prevention of the theft of, or damage to, or the commission of any nuisance on, any property acquired by or vested in the Government.

(3) Every regulation made by the Minister in charge of the subject of Finance shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister in charge of the subject of Finance shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be

* Repealed and replaced by the Companies Act, No. 17 of 1982-

deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

(d) require any other person to furnish such return or information as such person may deem necessary.

(5) Notification of the date on which any regulation is deemed under subsection (4) to be rescinded shall be published in the Gazette.

14. (1) The Minister in charge of the subject of Finance or any officer authorized by him in writing may by notice served on the proprietor of any business undertaking declare that such business undertaking is required for the purposes of the Government. Such notice is hereafter in this Act referred to as a " notice of claim ".

Notice of claim or disclaimer in respect of any property.

Interest shall be payable on payments due. [§2,21 of 1980,]

12A. Payments to be made in respect of-

- (a) any business undertaking acquired by, or vested in, the Government; or
- (b) any property vested in, or requisitioned by, the Government, for the purpose of any undertaking,

(2) Where a notice of claim under subsection (1) has been served on the proprietor of a business undertaking in respect of that undertaking, the Minister in charge of the subject of Finance or any officer authorized by him may, by notice (in this Act referred to as a " notice of disclaimer") served on such proprietor, disclaim the need for the purposes of the Government of that business undertaking.

shall be considered as accruing due from the date on which such business undertaking or property, as the case may be, was transferred to, or vested in, or requisitioned by, the Government. Interest at the prescribed rate shall be paid on every such payment from the date on which it accrues due until the date of payment.

(3) No person shall alienate to any person other than the Government—

- (a) the property of any business undertaking specified in a notice of claim and not disclaimed by a notice of disclaimer, or
- (b) any rights in respect of that business undertaking,

Powers of entry and inspection and power to demarcate premises used for or required by any business undertaking, to call for information and to make copies of any documents.

13. For the purposes of this Act any person authorized in writing by any Minister may—

- (a) enter at any reasonable hour any premises or place where a business undertaking is carried on and take an inventory of the property used or required for that undertaking, and inspect any books, registers or other documents maintained in relation to such undertaking and make copies of any entries in such books, registers or documents;

and any alienation of that business undertaking or of those rights to any person other than the Government shall be null and void.

enter at any reasonable hour any land, building or structure used for the purposes of a business undertaking and demarcate and set out the boundaries thereof,

(4) Any person shall, if requested by any officer authorized by the Minister in charge of the subject of Finance for the purpose, furnish to such person as shall be specified in the request information with regard to any matter within his knowledge relating to such business undertaking as shall be so specified.

- (b) enter any premises in which any movable property required for the purpose of the undertaking is kept or is suspected to be kept in order to inspect such property ; and

(5) Any notice under this section may be served

- (a) by delivering it to the person on whom it is to be served ; or

- (b) by leaving it at the usual or last known place of abode of that person; or
- (c) in the case of a company, by delivering it to a director or the secretary of the company; or
- (d) in the case of a firm, by delivering it to any partner of the firm.

- (f) who fails to furnish the information referred to in subsection (4) of section 14 or who wilfully withholds all or any part of such information or who furnishes information knowing such information to be false or who wilfully or negligently destroys or damages or causes to be destroyed or damaged any property belonging to any business undertaking specified in a notice of claim and in respect of which a notice of disclaimer has not been made,

Offences.

15. Any person—

- (a) who refuses or fails to deliver possession to the competent authority of any property which is vested in the Government by a vesting Order under this Act or which is requisitioned by a requisitioning Order under this Act; or
- (b) who wilfully or negligently destroys, damages or disables or causes to be destroyed or damaged or disabled or wilfully conceals or puts away or causes to be concealed or put away any property of a business undertaking acquired by or vested in the Government or any property in respect of which a subsidiary vesting Order or a requisitioning Order under this Act is made; or
- (c) who prevents or obstructs or directly or indirectly causes any other person to prevent or obstruct the competent authority in taking possession of such property ; or
- (d) who obstructs any other person in the exercise by such other person of the powers conferred on him by section 13 ; or
- (e) who fails to furnish to any other person any return or information required by such other person under section 13 or withholds in furnishing such return or information any material particular or furnishes any information knowing or having reason to believe such information to be false ; or

shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to imprisonment of either description for a period not less than one year and not exceeding three years and to a fine not exceeding five thousand rupees

16. All payments made in respect of any property acquired or requisitioned by or vested in the Government under this Act shall be charged on the Consolidated Fund.

Payments made in respect of property acquired or requisitioned by or vested in the Government to be charged on the Consolidated Fund. Interpretation.

17. In this Act, Unless the Context otherwise requires—

business undertaking" means any undertaking of a commercial, industrial, agricultural or professional nature and includes—

- (i) all property, movable or immovable, which was used for the purposes of the undertaking on the day immediately preceding the date of transfer or the primary vesting date and which may be specified by the Minister in charge of the subject of Finance in the primary vesting Order;
- (ii) subject to the provisions of this Act, all rights, powers, privileges and interests arising

in or out of such property or business and all the liabilities of that undertaking;

- (iii) all books, accounts and documents relating or appertaining to the business undertaking or any property of that undertaking;

date of transfer ", when used in relation to a business undertaking acquired for the Government by agreement, means the date of acquisition of that undertaking;

proprietor ", when used in relation to a business undertaking, means the

owner of that undertaking or any other person authorized by the owner to enter into contracts for the purposes of that undertaking ;

relevant Minister", when used in relation to a business undertaking, means the Minister at whose request that business undertaking was acquired for, or vested in, the Government by the Minister in charge of the subject of Finance under this Act;

vesting Order " means a primary vesting Order or a subsidiary vesting Order.

CHAPTER 543

BATTICALOA WATERWORKS

Ordinances
Nos. 6 of 1925,
17 of 1945.

AN ORDINANCE TO DECLARE THE BATTICALOA WATERWORKS TO BE VESTED IN THE
CEYLON GOVERNMENT.

[1st February. 1926.]

Preamble.

Whereas an arrangement for the construction of waterworks at a total cost of one hundred and forty-six thousand rupees for the use of the Local Board town of Batticaloa was made in the year nineteen hundred and fourteen between the Government and the Local Board of Batticaloa:

liability for payment of interest and sinking fund on the loan aforesaid :

And whereas it is desirable to make fit and proper provision with a view to removing any doubts as to the respective rights and duties of the Government and of the said Local Board in the premises ;

And whereas it was a term of the said arrangement that the Government should contribute the sum of eighty-four thousand rupees towards the cost of construction and that the balance was to be met by the Local Board out of a loan of sixty-two thousand rupees to be made to the said Board by the Government and to be repaid by a sinking fund at the rate of two and half *per centum* per annum together with interest at the rate of three and half *per centum* per annum :

Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the **Batticaloa Waterworks Ordinance.** Short title.

2. (1) The waterworks, hereinbefore referred to, constructed by the Government for the use of the Local Board town of Batticaloa and the land on which the said works stand shall belong to and be vested in the Government, and all tanks, reservoirs, cisterns, fountains, wells, aqueducts, conduits, tunnels, pipes, pumps, or other waterworks existing at the commencement of this Ordinance, or afterwards made, laid, or erected, and whether made, laid, or erected at the cost of the Government or otherwise, and all rights, servitudes, bridges, buildings, engines, works, materials, and things connected therewith or appertaining thereto, shall be vested in the Government. Vesting of Batticaloa waterworks in Ceylon Government.

And whereas the said waterworks were duly constructed by the Government and were handed over to the said Local Board as from the 31st day of March, 1917 :

(2) The Government shall have the right of breaking open the soil at any place, including the right of digging up and opening any street, road, or lane, for the purpose of constructing, laying, altering, or repairing any part of the said waterworks:

And whereas in the year nineteen hundred and eighteen by agreement with the Government the said Local Board handed over the property in, and the management and control over, the said works to the Government on the terms that the Government should provide such a water supply for the use of the said town as circumstances would permit and that the proceeds of the water-rate to be levied by the Local Board under the provisions of section 44 of the Local Boards' Ordinance, 1898,* should be paid by the said Local Board to the Government and that the Local Board should be relieved of the

Provided that the Government shall with all convenient speed, after such work has been completed, restore the ground broken open to its former condition.

*Repealed by Act No. 54 of 1949.

Duty of Government to supply water within Local Board limits.

3. (1) Subject to the performance by the said Local Board of the obligations undertaken by, or imposed on, them under this Ordinance, the Government shall provide a supply of drinking water within the Local Board town of Batticaloa, and shall for that purpose cause such pipes to be laid, and such tanks, reservoirs, or other works to be made, as are necessary for the supply of wholesome water in the public streets of the Local Board town of Batticaloa, and shall erect in such streets convenient stand-pipes, fountains, open reservoirs or pumps for the gratuitous use of the inhabitants of the said Local Board town of Batticaloa for domestic purposes. It shall also, subject to the performance of the obligations of the said Local Board hereinbefore mentioned, be the duty of the Government, as far as possible, to make adequate provision that such supply of water shall be continuous throughout the year, and that the water supplied shall be at all times fit for human consumption.

(2) A supply of water for domestic purposes shall not include a supply of water for horses or cattle or for washing vehicles, where such horses, cattle, or vehicles are kept for sale or hire, or a supply for any trade, manufacture, or business, or for fountains or swimming baths, or for any ornamental or mechanical purpose, or for purposes of irrigation.

(3) The Government may supply water for other than domestic purposes, or allow a private service of water to any house for domestic purposes, in such quantities and upon such terms and conditions as may be agreed upon between it and the persons desirous of being so supplied.

4. (1) As a contribution to the cost and maintenance of the said waterworks, the said Local Board agrees, and it is hereby empowered, to impose, annually, a water-rate on the annual value, ascertained in the manner provided by section 30 of the Local Boards' Ordinance, 1898,* of all houses, buildings, lands, and tenements within the limits of the Local Board town of Batticaloa. Such rates shall be imposed on or before the thirty-first day of December in each year, or on such other date as may be fixed by agreement between the Government and the said Local Board.

* Repealed by Act No. 54 of 1949.

(2) The amount of such water-rate shall be fixed, from time to time, by the Minister with the concurrence of the Minister of Finance, but shall in no case exceed six *per centum* on such annual value as aforesaid, and shall be paid and recovered in the same manner as the police tax is directed to be paid and recovered under the Police Ordinance, as amended by any subsequent enactment, and shall be subject in all respects to the provisions of that Ordinance as amended as aforesaid relating to the payment and recovery of such police tax. The Government Agent of the Eastern Province shall collect and recover such rate, and shall pay it into the Treasury.

(3) And it is hereby declared and agreed that in consideration of, and subject to the performance of their obligations under, the agreement above set forth, the said Local Board shall be relieved from all and every liability to repay to the said Government the loan of sixty-two thousand rupees hereinbefore recited, or any part thereof, or to pay any interest, or make any contribution towards any sinking fund, in respect of the said loan.

5. (1) The Minister may by notification in the Gazette, exempt either wholly or partially from the said water-rate any premises which, in his opinion, are not sufficiently supplied with water from such waterworks, and may from time to time revoke such exemption.

Exemption from payment of water-rate.

(2) There shall be exempt from the water-rate imposed under this Ordinance—

- (a) all lands or buildings wholly or mainly used for religious, educational, or charitable purposes;
- (b) all buildings in charge of military sentries; and
- (c) all burial and cremation grounds.

6. In the event of the said Local Board refusing, neglecting, or failing to impose a water-rate as hereinbefore provided, it shall be lawful for the Minister to impose such water-rate and to empower the Government Agent of the Eastern Province to collect and recover the water-rate in the manner and subject to the same conditions as if such water-rate had been duly imposed by the said Local Board.

Procedure on failure of Local Board to impose water-rate.

Imposition of water-rate and relief of Board from repayment of loan.

Regulations.

7. (1) The Minister may make all such regulations as may appear to him to be necessary for the purposes of the preservation and maintenance of the said waterworks, the supervision of the supply of water and the control of the use of the water supplied from the waterworks, and the recovery of charges for the supply of water in the cases referred to in section 3 (3); and without prejudice to the generality of the powers conferred by the preceding provisions of this subsection, regulations may be made for or in respect of all or any of the following matters ;—

- (a) the prevention of waste, misuse, undue consumption, or contamination of the water supplied for public or private use ;
- (b) the size, nature, strength, and materials, and the mode of arrangement, position, alteration, removal, renewal, and repair of the pipes, valves, cocks, cisterns, soil pans, water-closets, and other apparatus and receptacles to be used respectively for carrying, delivering, regulating, and storing water;
- (c) the control of the public supply of water by stand-pipes, and the use of such water;
- (d) the control of the supply of water by private services, and the materials and fittings to be used for the purpose;
- (e) the control of the supply of water by measurement, and the materials, meters, appliances and fittings to be used for the purpose or in connexion therewith;
- (f) the terms and conditions subject to which water will be supplied for other than domestic purposes or to a house by a private service, and the price to be paid for the water so supplied; and
- (g) the recovery of charges due in respect of any water so supplied in the same manner as a fine.

(2) No regulation made under subsection (1) shall have effect until it has been approved by Parliament; nor -until notification of such approval has been published in the Gazette.

(3) Every regulation made under subsection (1) shall upon publication of the notification of the approval of that regulation as provided for in subsection (2), be as valid and effectual as if it were herein enacted.

8. Every person who contravenes any regulation made under section 7 shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty rupees, and shall, in the case of a continuing offence, be liable to an additional fine not exceeding twenty-five rupees for every day during which the offence is continued after conviction or after service of a written notice from the Chairman of the Batticaloa Urban Council directing attention to such offence.

Penalty for contravention of regulations.

9. The obligations under this Ordinance imposed on, or undertaken by, the said Local Board shall be transferred to and carried out by any successor of the Board constituted under any enactment for the time being in force relating to the establishment of any local authority, for the purposes of Local Government; and for the purposes of the application of the preceding provisions of this Ordinance to such successor—

Obligations of Board to be carried out by successor.

- (a) the references in section 4 to the annual value ascertained in the manner provided by section 30 of the Local Boards' Ordinance, 1898,* shall be construed as references to the annual value ascertained for the purposes of any rate imposed by such successor;
- (b) the references in section 4 to the manner of payment and recovery prescribed by the Police Ordinance shall be construed as references to the manner of collection and recovery of any rate by such successor; and
- (c) the reference in section 4 to the Government Agent of the Eastern Province shall be construed as a reference to such successor.

CHAPTER 327

BRETTON WOODS AGREEMENTS

Ads AN ACT TO ENABLE CEYLON » TO BECOME A MEMBER OF THE INTERNATIONAL
 Nos. 20 of 1950, MONETARY FUND AND OF THE INTERNATIONAL BANK FOR RECONSTRUCTION
 19 of 1959, AND DEVELOPMENT BY ACCEPTANCE OF THE INTERNATIONAL AGREEMENTS
 4 of 1961, FOR THE ESTABLISHMENT AND OPERATION OF THE FUND AND BANK.
 2 of 1969,
Law
 No. 10 of 1978.

[22nd August. 1950.]

Preamble. Whereas the International Monetary Fund and the International Bank for Reconstruction and Development were established in pursuance of agreements drawn up at the United Nations Monetary and Financial Conference held at Bretton Woods in New Hampshire in the United States of America in July 1944:

ACCEPTANCE OF THE AGREEMENTS AND FINANCIAL PROVISIONS

2. The Governor-General \ is hereby authorized by instruments under his hand to empower such person as may be named in such instruments, on behalf of the Government of Ceylon* —

Authorization of signature of Articles of Agreement of the Fund and the Bank respectively.

And whereas copies of the text of the Articles of the said Agreements have been laid before Parliament:

(a) to sign the Articles of Agreement of the International Monetary Fund and the Articles of Agreement of the International Bank for Reconstruction and Development, respectively; and

And whereas the International Monetary Fund and the International Bank for Reconstruction and Development have prescribed the terms and conditions set out in the First Schedule and the Second Schedule to this Act as the terms and conditions upon which Ceylon* may be admitted to membership of the International Monetary Fund and the International Bank for Reconstruction and Development respectively:

(h) to deposit with the Government of the United States of America instruments of acceptance of the Articles of Agreement of the Fund and of the Articles of Agreement of the Bank (hereinafter referred to as "the Bank Agreement"), stating that the Government of Ceylon* has accepted in accordance with its law the respective Articles and the terms and conditions prescribed thereunder as the terms upon which the Government of Ceylon* shall be admitted to membership of the Fund and of the Bank.

[3, 2 of 1969.]

And whereas, for the purpose of complying with the terms and conditions aforesaid, it is necessary to make provision as hereinafter set out:

Now, therefore, be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

3. (1) There shall be paid out of the Consolidated Fund of Sri Lanka such part of the subscriptions of Sri Lanka as may, in accordance with the provisions of sections 1 and 4 of Article 1H of the Fund Agreement, be payable in Sri Lanka currency or special

Subscription to International Monetary Fund- IS 3, Law 10 of 1978.]

Short title. 1. This Act may be cited as the Bretton Woods Agreements Act.

* Now Sri Lanka-
 *f First Schedule is omitted.
 I Further action, if necessary, under this section has to be taken by the President.

drawing rights or such other currency as may be specified by the Fund.

(2) Where the subscription of Sri Lanka to the International Monetary Fund is increased in consequence of an increase in the quota for Sri Lanka, there shall be paid out of the Consolidated Fund such sums as may, under section 3 of Article III of the Fund Agreement, be necessary for paying in Sri Lanka currency or special drawing rights or any other currency specified by the Fund, the amount of the increase in such subscription.

(3) The Minister is hereby authorized on behalf of the Government, to create and issue to the General Resources Account of the International Monetary Fund, in such form as he thinks fit, any such non-interest bearing and non-negotiable notes or other obligations as the Fund may, under section 4 of Article III of the Fund Agreement, determine to accept in place of any part of the subscription of Sri Lanka which would, but for such acceptance, be payable in Sri Lanka currency.

4. (1) There shall be paid out of the Consolidated Fund of Sri Lanka—

- (a) all sums payable to the General Resources Account of the International Monetary Fund under section 11 of Article V of the Fund Agreement (which relates to changes in the exchange value of currencies of members);
- (b) all sums required for implementing the guarantee required by section 3 of Article XIII of the Fund Agreement, that is to say, a guarantee of the assets of the Fund against loss resulting from failure or default of the depository designated by the Government of Sri Lanka under the said Article ;
- (c) all sums required for the redemption of any notes or obligations created and issued to the General Resources Account of the Fund under this Act;
- (d) any compensation required to be paid to the Fund or to any member thereof under Schedule J of the

Fund Agreement (which relates to the withdrawal of members from the Fund) or under Schedule K thereof (which relates to the liquidation of the Fund);

- (e) to the Central Bank, all sums paid by that Bank on behalf of Sri Lanka under section 2 of Article XVI of the Fund Agreement, and assessed as so payable under section 4 of Article XX of the Fund Agreement;
- (f) any compensation which Sri Lanka is required or obliged to pay to any participant in the Special Drawing Rights Department in that Fund under section 8 of Schedule I of the Fund Agreement (which relates to the administration of the liquidation of that Department); and
- (g) all sums, other than sums by way of compensation referred to in paragraph (f), which Sri Lanka is required or obliged to pay to that Fund or any member thereof in order to discharge its obligations as a participant in the Special Drawing Rights Department in that Fund.

(2) The Minister, if he thinks fit so to do, may, on behalf of the Government, create and issue to the General Resources Account of the International Monetary Fund, in such form as he thinks fit, any such non-interest bearing and non-negotiable notes or other obligations as the Fund may, under section 4 of Article III of the Fund Agreement, determine to accept in place of any Sri Lanka currency payable to the Fund under any provisions of the Fund Agreement mentioned in paragraph (a) or paragraph (b) or paragraph (c) of subsection (1) of this section.

5. (1) There shall be paid out of the Consolidated Fund such part of the subscription of Sri Lanka specified in paragraph 2 of the terms and conditions set out in the Second Schedule to this Act as may, in accordance with those terms and conditions and the provisions of Article II

Subscription to International Bank for Reconstruction and Development.

Other payments to the International Monetary Fund. [§ 4, Law 10 of 1978.]

of the Bank Agreement, be payable in gold or United States dollars or in Sri Lanka currency.

(IA) Where the authorized capital stock of the International Bank for Reconstruction and Development is increased and Sri Lanka decides to subscribe such proportion of the increase of that capital stock as Sri Lanka is entitled to subscribe under paragraph (c) of section 3 of Article II of the Bank Agreement, there shall be paid out of the Consolidated Fund such sum as may be necessary for making such subscription in accordance with the conditions that may be decided by such Bank under the aforesaid paragraph (c).

(IB) Where Sri Lanka decides to subscribe, pursuant to paragraph (b) of section 3 of Article II of the Bank Agreement, to shares of the authorized capital stock of the International Bank for Reconstruction and Development in addition to its minimum subscription, there shall be paid out of the Consolidated Fund such sums as may be necessary for subscribing to such shares.

(2) The Minister in charge of the subject of Finance is hereby authorized, on behalf of the Government, to create and issue to the International Bank for Reconstruction and Development, in such form as he thinks fit, any such non-interest-bearing and non-negotiable notes or other obligations as the Bank may, under section 12 of Article V of the Bank Agreement, determine to accept in place of any part of the subscription of Sri Lanka which would, but for such acceptance, be payable in Sri Lanka currency.

6. There shall be paid out of the Consolidated Fund —

- (a) all sums payable to the International Bank for Reconstruction and Development under section 9 of Article II of the Bank Agreement (which relates to changes in the par or foreign exchange value of currencies of members); and
- (b) all sums required for the redemption of any notes or obligations created and issued to that Bank under this Act.

7. (1) For the purpose of providing any sums required to be paid out of the Consolidated Fund under section 3 of this Act, or under paragraph (a) or paragraph (b) or paragraph (c) of subsection (1) of section 4 of this Act, or under section 5 or section 6 of this Act, the Minister in charge of the subject of Finance is hereby authorized to raise loans, on behalf of the Government, by the creation and issue to the Central Bank of Ceylon, in such form as he thinks fit, of non-interest-bearing and non-negotiable notes or obligations.

(2) Notwithstanding anything in the Monetary Law Act the Central Bank of Ceylon is hereby authorized to accept and hold any notes or obligations created and issued in accordance with the provisions of subsection (1) of this section.

(3) There shall be paid out of the Consolidated Fund all sums required for the redemption of any notes or obligations created and issued to the Central Bank of Ceylon under subsection (1) of this section.

8. (1) The Central Bank of Ceylon is hereby authorized to make payment of all sums required for the purpose of paying any charges payable to the International Monetary Fund under section 8 of Article V of the Fund Agreement.

(2) All sums received by or on behalf of the Government of Sri Lanka from the International Monetary Fund or from the International Bank for Reconstruction and Development, other than sums received by reason of operations of the Central Bank of Ceylon under Article V or Article VII or Article VIII of the Fund Agreement, shall be paid into the Consolidated Fund; and the sums so received, in so far as they represent capital, shall, unless otherwise provided in that behalf by any written law, be applied from time to time as the Minister in charge of the subject of Finance may direct in the redemption of notes or other obligations issued to the Central Bank under this Act.

Issue of Government notes or obligations to Central Bank. [§ 4, 19 of 1959.]

Charges and receipts.

[§3, 19 of 1959.]

[§2, 4 of 1961.]

Other payments to the International Bank.

Special provisions relating to the Central Bank in relation to operations in the Special Drawing Rights Department. [§ 5, Law 10 of 1978.]

8A. (1) The Central Bank is hereby authorized to acquire, hold and operate on, or dispose of, special drawing rights in the Special Drawing Rights Department in the International Monetary Fund.

(2) The Central Bank is hereby authorized—

- (a) to make payments of all sums required for the purpose of paying any charges payable to the International Monetary Fund under section 2 of Article XX of the Fund Agreement in respect of the special drawing rights in the Special Drawing Rights Department in that Fund; and
- (b) to receive, and to credit to its own funds, the interest payable by that Fund in respect of such special drawing rights under section 1 of the said Article XX.

Special provision in relation to the use of the General Resources of the International Monetary Fund. [§6, Law 10 of 1978.]

8B. The Central Bank is hereby authorized to take steps—

- (a) to ensure that the balances of Sri Lanka currency purchased from the International Monetary Fund by a member of the Fund can be exchanged at the time of purchase, by such member, for a freely usable currency selected by Sri Lanka, in accordance with section 3 (e) of the Article V of the Fund Agreement; and
- (b) to ensure that any member of the Fund repurchasing its own currency from the Fund can obtain Sri Lanka currency (if Sri Lanka currency is specified by the Fund for the repurchase) at the time of repurchase in exchange for a freely usable currency selected by Sri Lanka, in accordance with section 7 (/) of Article V of the Fund Agreement.

STATUS AND IMMUNITIES OF THE FUND AND OF THE BANK

9. (1) The President may, by Order, make such provision as he may consider reasonably necessary for carrying into effect any of the provisions of the Fund Agreement and the Bank Agreement relating to the status, immunities and privileges of the International Monetary Fund and of the International Bank for Reconstruction and Development and their respective Governors, executive directors, alternates, officers and employees, or any of the provisions of the Fund Agreement as to the unenforceability of exchange contracts.

Orders for carrying the Agreements into effect.

(2) Without prejudice to the generality of the provisions of subsection (1), any Order made under that subsection may declare that any specified provisions of the Fund Agreement or the Bank Agreement shall have the force of law in Sri Lanka.

10. In this Act,—

Interpretation.

" Central Bank " means the Central Bank of Ceylon established under section 5 of the Monetary Law Act;

[§ 7, Law 10 of 1978.]

" Fund Agreement " means the Articles of Agreement of the International Monetary Fund as originally adopted and as subsequently amended—

[§ 7, Law 10 of 1978-]

(a) in order to institute a facility based on special drawing rights (the text of which amendment was laid before the House of Representatives on November 23, 1968); and

(b) in order to establish a new international monetary system (which amendment was incorporated in the text of the Articles of Agreement of the Fund laid before the National State Assembly on April 4, 1978);

"International Monetary Fund" means the International Monetary Fund which is established and is in operation in accordance with the provisions of the Fund Agreement.

[§6,2 of 1969.]

BRETTON WOODS AGREEMENTS

[Cap. 327

*SECOND SCHEDULE

[Section 5.]

TERMS AND CONDITIONS PRESCRIBED BY RESOLUTION OF THE BOARD OF GOVERNORS OF
THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR ADMISSION OF
THE GOVERNMENT OF CEYLON * TO MEMBERSHIP IN THE BANK

1. *Definitions.*—As used in this resolution :

- (a) The term " Ceylon " f means the Government of Ceylon +
- (b) The term " Bank " means International Bank for Reconstruction and Development.
- (c) The term " Articles " means the Articles of Agreement of the Bank.
- (d) The term " dollars " or " S " means United States dollars of the weight and fineness in effect on July 1, 1944.
- (e) The term " subscription " means the capital stock of the Bank subscribed to by a member.
- (f) The term " member " means member of the Bank.

2. *Subscription.*— By accepting membership in the Bank, Ceylon f shall subscribe to 150 shares of the capital stock of the Bank at the par value of \$100,000 per share.

3. *Membership in the Fund.*— Before accepting membership in the Bank, Ceylon f shall accept membership in and become a member of the International Monetary Fund-

4. *Payments on Subscription:*

- (a) Before accepting membership in the Bank, Ceylon T shall pay to the Bank:
 - (i) Gold or United States dollars equal to 2 per cent of its subscription, without any right to postpone payment of any part thereof under Section 8 (a) of Article II of the Articles ; and
 - (ii) An amount in the currency of Ceylon f which at the appropriate prevailing exchange rate, shall be equal in value to 18 per cent of its subscription.
- (b) Ceylon f shall agree that, if it tenders any part of the payment called for in paragraph (a) (i) above in gold, the Bank shall have the right to reject any such gold which, in its opinion, may not be sold freely and unconditionally by the Bank to members requiring certification or other evidence as to the origin of gold purchased by them.

5. *Representation and Information.*— Before accepting membership in the Bank, Ceylon f shall represent to the Bank that it has taken all action necessary to sign and deposit the instrument of acceptance and sign the Articles as contemplated by paragraph 6 (a) and (b) of this resolution and Ceylon + shall furnish to the Bank such information in respect of such action as the Bank may request.

6. *Acceptance of Membership.*- After the Bank shall have informed the Government of the United States of America that Ceylon+ (i) has made the payments called for by paragraph 4 of this resolution; (ii) has made the representation called for by paragraph 5 of this resolution ; and (iii) has furnished the information requested by the Bank pursuant to said paragraph 5, and after Ceylon f shall have become a member of the International Monetary Fund, Ceylon f shall become a member of the Bank, with a subscription as set forth in paragraph 2 of this resolution, as of the date when Ceylon f shall have complied with the following requirements ;—

- (a) Ceylon t shall deposit with the Government of the United States of America an instrument stating that it has accepted in accordance with its law the Articles and all the terms and conditions prescribed in this resolution, and that it has taken all steps necessary to enable it to carry out all its obligations under the Articles and this resolution ;
- (b) Ceylon f shall sign the original copy of the Articles held in the Archives of the Government of the United States of America.

7. *Limitation on Period for Acceptance of Membership.*— Ceylon f may accept membership in the Bank pursuant to this resolution until December 31, 1950; provided, however, that, if extraordinary circumstances are deemed by the Executive Directors to warrant an extension of the period during which Ceylon f may accept membership pursuant to this resolution, the Executive Directors may extend such period until such later date as they may determine, but in no event beyond June 30, 1951.

* First Schedule is omitted.

+Now Sri Lanka.

CHAPTER 172

CHAUFFEURS

Ordinance AN ORDINANCE FOR THE REGULATION OF CHAUFFEURS.
No. 23 of 1912.

[9 th September, 1912.]

Short title. 1. This Ordinance may be cited as the
Chauffeurs Regulation Ordinance.

2. The Service Contracts Ordinance together with all amendments of the same, and the Registration of Domestic Servants Ordinance together with all amendments of the same, shall apply to chauffeurs in all respects as if they were domestic servants.

The Service Contracts Ordinance and the Registration of Domestic Servants Ordinance to apply to chauffeurs as if they were domestic servants.

CHAPTER 178

COMPANIES (DONATIONS)

Act AN ACT TO AUTHORIZE COMPANIES TO MAKE DONATIONS OR SUBSCRIPTIONS FOR
 No. 26 of 1951. SPECIFIED PURPOSES.

[13th August, 1951.]

Short title. **1.** This Act may be cited as the Companies (Donations) Act. which has heretofore been made by any company shall, whether or not it was made in pursuance of a resolution, of the company, be deemed to have been valid for all purposes in all respects as though that subsection had been in force at the time it was made.

Power of company to make donations, &c. **2.** (1) Every company shall have the power to make donations or subscriptions of money for any national, public, educational, charitable, benevolent, political or religious purpose. (2) Any donation or subscription of any description mentioned in subsection (1) may be made by any company in pursuance of an ordinary resolution passed at a general meeting of the company of which not less than seven days' prior notice is given.

(4) The preceding provisions of this section shall have effect and be deemed to have had effect notwithstanding anything in the memorandum of association of a company or in any other law.

(3) Every donation or subscription of any description mentioned in subsection (1) (5) In this section "company" has the same meaning as in the Companies Ordinance,*

* Later repealed and replaced by the Companies Act, No. 17 of 1962—See the 1985 Supplement to the Revised Edition.

CHAPTER 190

CHEETUS

Ordinances Nos.61 of 1935, 18 of 1939, 54 of 1941, 12 of 1945, Acts. Nos.55 of 1949, 22 of 1955, 34 of 1957.

AN ORDINANCE TO PROVIDE FOR THE REGISTRATION AND CONTROL OF "CHEETUS

[1st April. 1937.]

PART I

PRELIMINARY

Short title.

1. This Ordinance may be cited as the Cheetu Ordinance.

interpretation.

2. In this Ordinance, unless the context otherwise requires—

" agreement " means the document which contains the terms and conditions agreed to and adopted by the subscribers and the manager of a cheeiu ;

" cheetu " means a scheme or arrangement based wholly on the terms and conditions set out in section 3 but does not include any scheme or arrangement which only partakes of the nature of a cheeiu within the meaning of section 4 ;

" cheetu amount " means the pool or the aggregate of the instalments payable on any specified day or in respect of any specified interval;

" discount " means that portion of the cheeiu amount which the subscriber who purchases ii agrees to forego ;

" dividend " means the share of the discount payable to each subscriber;

" instalment " means the sum of money payable periodically by each subscriber under the agreement;

" manager " means the person who promotes the cheeiu and who is responsible under the agreement for its management;

" prize " or " prize amount " means the difference between the cheetu amount and the discount;

" registrar ", in relation to any cheetu, means the Registrar of Companies and includes any such officer of the department of the Registrar of Companies as may be authorized by the Registrar of Companies to exercise the powers and discharge the duties of the Registrar of Companies under this Ordinance; [§2.34 of 1957-]

" subscriber " includes any person who has agreed to participate in a cheeiu or has signed the agreement in token thereof.

PART II

" CHEETUS "

3. (1) No scheme or arrangement purporting to be a cheetu shall be deemed to be a cheetu lor the purposes of this Ordinance, unless at the time of the formation of that scheme or arrangement the persons joining as subscribers and the person acting as manager agree upon and adopt each of the following essential terms and conditions :— Essential terms and conditions of a cheetu.

(a) that the cheetu is to be for a specified amount and for a specified number of subscribers only;

(b) that the subscribers are to contribute equal portions of the amount;

- (c) that the contribution of each subscriber is to be paid to the manager in money in equal instalments of a specified value during a specified period not exceeding thirty months;
 - (d) that each instalment is to be payable on a date specified therefor or within such number of days of grace after that date as may be specified,
 - (e) that on or after each date on which the instalments are payable, the *cheelu* amount is to be put up for sale by the manager among the subscribers either by auction or by way of sealed tenders ;
 - (f) that each of the subscribers is to be entitled to purchase the *cheelu* amount once and not oftener during the period of that *cheelu*, and that no subscriber who has been declared the purchaser at any such sale is to be entitled or permitted to bid or tender at any subsequent sale;
 - (g) that every bid or tender of a subscriber at a sale is to indicate the sum which he is willing to forego as discount for the privilege of obtaining the prize on that occasion;
 - (h) that of the subscribers entitled to bid at any sale, the subscriber who offers the highest discount is to be declared the purchaser;
 - (i) that the purchaser is to be entitled to receive the prize consisting of the *cheelu* amount less the discount offered by him, on giving security to the manager for the due payment of his future instalments in respect of that *cheelu*;
 - (j) that out of the discount so secured at each sale, the manager is to appropriate for commission and working expenses a specified sum or a sum bearing a specified proportion to the prize at that sate ,
 - (k) that the balance of the discount is to be distributed in equal proportion among all the subscribers.
- (2) In every case where the manager of a *cheelu* desires to participate therein as a subscriber, it shall also be obligatory to adopt, in addition to the terms and conditions set out in subsection (1), the condition that he is not to be entitled to bid or tender as an ordinary subscriber at any sale held for the purposes of that *cheelu*, and that the final *cheelu* amount made up of the instalments payable at the end of the *cheelu* period is to be appropriated by him for his share,
- 4.** Every scheme or arrangement which, notwithstanding that it purports to be a *cheelu*. is not based wholly on the essential terms and conditions set out in section 3 or which is based on terms and conditions inconsistent wholly or in part with those essential terms and conditions, shall for the purposes of this Ordinance be deemed only to partake of the nature of a *cheelu*.
- Explanation I.*—A scheme or arrangement under which the right to a prize is determined by the drawing of lots is not a *cheelu* but only partakes of the nature of a *cheelu*.
- Explanation II* A scheme or arrangement under which all the subscribers are to get prices in turn with a liability to pay future contributions but the prices themselves are of fixed amounts and not ascertainable by the deduction of the discount offered from the *cheelu* amount in each case, is not a *cheelu* but only partakes of the nature of a *cheelu*.
- 5.** (1) No person shall promote or conduct, or aid, assist, or take any part in the promotion or conduct of, any scheme or arrangement which only partakes of the nature of a *cheelu* within the meaning of section 4.
- (2) No right or claim under any scheme or arrangement which only partakes of the nature of a *cheelu* within the meaning of section 4, shall be enforceable by action in any court in Sri Lanka.
- 6.** (1) No person shall promote or conduct, or aid, assist, or take any part in the promotion or conduct of, any *cheelu* otherwise than in accordance with the provisions of this Ordinance.

Schemes which only partake of the nature of a *cheelu*.

Prohibition of schemes which only partake of the nature of a *cheelu*.

Prohibition of *cheelus* conducted in contravention of the Ordinance.

(2) Any scheme or arrangement which is based wholly on the essential terms and conditions set out in section 3 or has all the attributes and incidents of a *cheetu* within the scope and intent of that section, shall, notwithstanding that it is called by any other name, be deemed to be a *cheetu* for the purposes of this Ordinance.

(3) Nothing in this section shall effect any *cheetu* in which the *cheetu* amount does not exceed fifty rupees, if the person conducting that *cheetu* does not, during the period for which that *cheetu* continues, promote or conduct, or aid or assist or take any part in the promotion or conduct of any other *cheetu* whatsoever.

PART 111

FORMATION AND REGISTRATION OF "CHEETUS"

Formation of *cheetus*.

7. (1) Subject to the provisions of Part V relating to the formation of *cheetus* by companies or firms or by individuals trading under business names, every *cheetu* shall be formed by the execution of a written agreement between the manager on the one part and the intending subscribers severally on the other part.

Requisites of the agreement.

(2) Every such agreement shall contain

(a) all the essential terms and conditions set out in section 3 with the actual amounts, dates, and other particulars necessary in each case ;

(b) the full "name and address of the manager and of each of the subscribers, the business address of the manager or the exact situation of the place where the records of the *cheetu* are to be kept and its business is to be transacted,

and may in addition contain such other terms and conditions not inconsistent with the essential terms and conditions as may be agreed upon between the parties for the better management and control of the *cheetu*.

(3) In respect of every *cheetu*, the agreement as aforesaid shall be signed in original and duplicate by the manager and the several intending subscribers, either in person or by duly authorized agent, and each signature shall be attested by not less than two witnesses present at the time of signing.

8. (1) As soon as may be after the agreement has been signed by each intending subscriber, the manager shall give him a written acknowledgment that that subscriber is entitled to participate in the *cheetu*. Duty of manager to acknowledge subscriber's rights

(2) Within twenty-one days, exclusive of public holidays, after the formation of a *cheetu* under section 7, the manager of the *cheetu* shall deliver or transmit the agreement in original and duplicate to the registrar. and to forward agreement for registration.

9. The registrar shall, if the agreement is in accordance with the requirements of this Ordinance and the regulations made thereunder, forthwith— Duties of the registrar.

- (a) register the *cheetu* in a book kept by him for the purpose ;
- (b) endorse the fact of the registration and the registered number under his signature on each of the copies ;
- (c) return the original so endorsed to the manager; and
- (d) file the duplicate so endorse in his office,

10. Within seven days of the receipt of the original endorsed by the registrar, the manager shall deliver or transmit to every subscriber a copy, certified under his signature as a true copy, of the agreement and of the endorsement made thereon by the registrar. Duty of manager to furnish copies of registered agreement to subscribers.

PART IV

CONDUCT OF "CHEETUS"

11. Every *cheetu* shall be conducted in accordance with the provisions of this Ordinance and the regulations made thereunder and the terms and conditions of the agreement relating to that *cheetu*. Conduct of cheetus

Meetings of subscribers..

12. (1) Where the provisions of the Ordinance or the regulations made thereunder or the terms and conditions of the agreement require any matter to be decided by a meeting of the subscribers, the manager shall convene a meeting for the purpose by written notice served on each of the subscribers not less than seven days before the date selected by him for the meeting.

(2) Every such notice shall state the time and place at which the meeting is to be held, and the business to be transacted at the meeting.

(3) The notice may either be served personally on each subscriber or sent to him by registered or certified post; and any notice sent to a subscriber by registered post shall be deemed to have been duly served if it was addressed to the registered address of that subscriber or to any other address notified by him in writing to the manager.

13. (1) The manager shall enter in a book to be kept by him for the purpose the minutes of the proceedings of every meeting of the subscribers, and the minutes shall in every case contain the following particulars :-

- (a) the place, date, time, and duration of the meeting;
- (b) the names of the subscribers who were present;
- (c) the items of business transacted at the meeting;

and in the case of a meeting at which a *cheetu* amount is auctioned, the following additional particulars:—

- (d) the serial number of the auction ;
- (e) the name of each bidder and the amount of each bid ;
- (f) the name of the purchaser; and
- (g) the amount of the discount.

(2) The minutes of each meeting shall be entered in the book immediately after the

meeting and shall be signed in every case by the manager and by not less than two of the subscribers present at the meeting, and in the case of a meeting at which a *cheetu* amount is auctioned, by the purchaser also.

(3) A copy of the minutes so recorded of each meeting, certified as a true and correct copy under the hand of the manager, shall within twenty-one days of that meeting be forwarded by him to the registrar who shall file it in his office :

Copy of minutes to be filed in registrar's office.

Provided, however, that in lieu of this subsection the provisions of subsections (2) and (3) of section 14 shall apply to the minutes of any meeting at which any alteration of the terms and conditions of the agreement is adopted.

14. (1) Subject to the provisions of this Ordinance and the regulations made thereunder and subject also to any terms or conditions contained in the agreement as to the matters or the mode in which alterations of the agreement may be made, any alteration of the figures, amounts, dates, or other particulars which are not likely to affect the intention or the legal effect of the essential terms and conditions, or any alteration of the additional terms and conditions contained in any registered agreement, may be made at any meeting of the subscribers, duly convened for the purpose, by the votes of a majority the aggregate of whose instalments is not less than three-fourths of the *cheetu* amount.

Alteration of the agreement

(2) Within twenty-one days of each such meeting two copies of the minutes of that meeting, certified under the hand of the manager as true and correct copies, of the minutes recorded and signed in the manner required by section 13, shall be delivered or transmitted by him to the registrar.

and registration of the alteration.

(3) The provisions of sections 9 and 10, as to registration and service of copies on the subscribers, shall apply to the copies of the minutes so delivered or transmitted.

15. Every subscriber shall be entitled to a receipt under the hand of the manager each instalment paid by him.

Receipts for the instalments paid.

Minutes of meetings.

When first instalment may be received.

16. The manager shall not demand or receive payment of the first instalment due from any subscriber until he has complied with the requirements of section 10.

Security to be given by managers.

17. As soon as may be after the agreement is signed by the last of the intending subscribers, the manager shall execute as security for the due discharge of his duties and liabilities under the agreement, and shall forward to the registrar together with the original and the duplicate of the agreement, a bond hypothecating to the registrar, in trust for the subscribers, property, movable or immovable, sufficient for the realization of twice the cheetu amount, and approved by the registrar subject to such regulations as may be made for prescribing the conditions of such approval or the procedure to be followed.

[§4. 34 of 1957.]

Security to be given by purchaser of cheetu amount

18. (I) Every subscriber who is declared the purchaser of a cheetu amount shall, as a condition precedent to the payment of the prize amount to him by the manager, give security to the manager for the payment of the instalments due from him for the remainder of that cheetu period.

(2) Where any terms or conditions as to the security to be given by a subscriber upon his being declared the purchaser of a cheetu amount, have been included in the agreement relating to that cheetu or agreed upon at any duly convened meeting of the subscribers, the security required by subsection (I) shall be given in accordance with such terms or conditions; and in every other case, the security shall be given to the satisfaction of the manager subject to an appeal as hereinafter provided.

(3) Where the manager refuses to accept the security tendered by a subscriber on the ground that it is not in accordance with the terms and conditions referred to in subsection (2). or, where such terms and conditions have not been agreed upon, on the ground that it is not suitable or sufficient, the subscriber shall be entitled to appeal to the registrar against the refusal of the manager to accept the security. Every such appeal shall be preferred within such time and in such manner as may be prescribed by regulations.

(4) On any appeal preferred under subsection (3), the registrar may make order declaring that the security to which the appeal relates is in accordance with the terms and conditions referred to in subsection (2), or that it is suitable and sufficient, as the case may be, or directing the subscriber by whom the appeal is preferred to give such other security as may be specified in the order. Every order of the registrar under this subsection shall be final and conclusive for all the purposes of this Ordinance.

(5) On security being furnished by the subscriber as provided in subsection (2), or, in any case where there has been an appeal, in accordance with the order of the registrar, the manager shall forthwith pay the prize amount to the subscriber.

19. (1) Where, by reason of the failure of the subscriber purchasing any cheetu amount to give the security required under section 18, the prize amount remains unpaid on the date fixed for the auction of the next succeeding cheetu amount, the manager shall, within fourteen days after that date, deposit that prize amount in such bank as may be approved by the registrar.

Prize amount to be deposited in bank if security is not given by purchaser.

[§4. 34 of 1957.]

(2) Any prize amount deposited under subsection (1) may be withdrawn from the bank for payment to the purchaser on the requirements of section 18 as to security being complied with by the purchaser.

(3) In any case referred to in subsection (1), if security is not given within one month after the date of the deposit of the prize amount in a bank, the manager may either

(a) declare the next highest bidder at that sale to be the purchaser of the cheetu amount, and make payment to him of a prize amount according to his bid, on his furnishing security as required by section 18; or

(b) fix a date for a fresh sale of that cheetu amount and give not less than seven days' notice of the date to each of the subscribers then entitled to bid at a sale.

Substitution of new subscriber for defaulting subscriber who has not purchased any cheetu amount.

20. (1) Where default in the payment of any instalment is made by any subscriber who has not purchased a cheetu amount, the manager shall be entitled to remove the name of the defaulting subscriber from the register of subscribers kept under section 25 and to substitute therein the name of a new subscriber:

Provided, however, that the removal of the name from the register shall not be deemed to prejudice the right of the defaulting subscriber to a refund of the actual amount of any earlier instalments paid by him, at such lime and with such deductions by way of penalty as may be authorized by the terms and conditions of the agreement.

(2) Within twenty-one days of the substitution of a new subscriber under subsection (1), the manager shall deliver or transmit to the registrar two copies of a statement under his hand setting out the full particulars of the removal and the substitution, and the provisions of sections 9 and 10 as to registration and service of copies on the subscribers shall apply to the copies of the statement so delivered or transmitted.

(3) Upon the registration of (he manager's statement relating to the substitution of a new subscriber, all the rights and liabilities that would under the agreement have accrued to or been incurred by the defaulting subscriber after the date of such substitution if he had not made default, shall be deemed to be transferred to the new subscriber.

(4) No collateral undertaking as to mutual rights and obligations entered into by the manager and the new subscriber for the purposes of the substitution of the new subscriber, shall be deemed to affect in any respect the duties and liabilities of the new subscriber under the terms and conditions of the agreement.

Voluntary reduction of membership in lieu of substitution of new subscriber.

21. (1) In any case referred to in section 20, the manager may, before substituting a new subscriber in place of the defaulting subscriber whose name is removed from the register under that section, convene a meeting of the remaining

subscribers for the purpose of obtaining their consent to a reduction of the number of subscribers and of the cheetu amount by refraining from substituting a new subscriber in place of the defaulting subscriber.

(2) If at the meeting so convened, the subscribers by a majority representing not less than two-thirds of the cheetu amount at the time of the meeting, consent to such reduction and to the necessary alteration of the agreement, the manager shall take steps required by section 14 for the registration of the alteration.

(3) Upon the registration of the alterations made for the purposes of a voJiintary reduction under this section, every subscriber who is the purchaser of a cheetu amount sold at any auction prior to the date of the reduction, shall be liable to continue the payment of the instalments specified in the agreement until the aggregate amount so contributed by him becomes equal to the cheetu amount at the time of the sale at which he was declared the purchaser.

22. Where default in the payment of any instalment is made by a subscriber who has already purchased a cheetu amount, that subscriber shall be liable to make immediate payment to the manager of the aggregate of all the instalments payable by him to the end of the cheetu period.

Liability of defaulting subscribers to pay future instalments.

23. (1) Any subscriber who has not purchased a cheetu amount may make over his rights in the cheetu by a transfer in writing to any person approved by the manager.

Transfer of subscriber's rights.

(2) Notice of every transfer made under subsection (1) shall be given forthwith to the manager, in writing, signed by the transferor and the transferee.

(3) On receipt of the notice of any transfer made under subsection (1) the manager shall make the appropriate entries in the register of subscribers kept under section 25 and deliver or transmit a copy of the entries to the registrar within twenty-one days of the date on which they were made. The provisions of sections 9 and 10 as to

registration and service of copies on the subscribers shall apply to every copy delivered or transmitted under this subsection.

(4) Where the transfer of the rights of any subscriber under subsection (1). is proved at any time during the *cheeiu* period to have been made to any person who was insolvent at the time of the transfer or to have been made with the intention of defeating the provisions of any law in force in Sri Lanka, the transfer shall not be deemed to operate as a discharge to that subscriber from his duties and liabilities under the terms and conditions of the agreement.

(5) Notwithstanding anything contained in any other written law to the contrary, the stamp duty payable on any transfer under this section shall be fifty cents irrespective of the consideration for the transfer.

Transfer of manager's right to recover instalments to be voidable.

24. Any transfer made by the manager of his right to recover the instalments payable by subscribers who have purchased *cheeiu* amounts, shall be voidable at the instance of any subscriber who has not purchased a *cheetu* amount if such transfer is likely to defeat or delay the rights of that subscriber under the terms and conditions of the agreement.

Books to be kept by manager.

25. The manager shall keep, and from day to day regularly post up the following books and such other books as may from time to time be prescribed by regulation :—

- (1) A register of subscribers containing—
 - (a) the names and full addresses of all subscribers with the respective dates on which the subscribers signed the agreement, and the date on which any subscriber ceased to be a subscriber by reason of a transfer of rights or of a substitution in case of default;
 - (b) in the case of any transfer of rights by a subscriber, the name and full address of the

person to whom the rights are transferred, with the date of such transfer and the date on which notice thereof is given to the manager; and

- (c) the name and full address of any person substituted in place of defaulting subscribers, with the dates on which they are so substituted.
- (2) The minute book required under section 13,
- (3) An account book containing separate accounts of the following:—
 - (a) the instalments paid by each subscriber and the respective dates of such payments ;
 - (b) the prize amounts paid to purchasers of the *cheeiu* amount and the respective dates of such payments,
 - (c) the amount of the manager's commission or remuneration and the registration fees paid by him: and
 - (d) the amount of the dividend paid to each subscriber on each occasion and the date of such payment.

26. (I) The manager shall be liable to each subscriber for all amounts due to that subscriber under the terms and conditions of the agreement.

Manager's liability to subscribers.

(2) The manager shall not be entitled to withdraw from the management and conduct of the *cheeiu* without the written consent of all the subscribers,

(3) Where the manager is adjudicated an insolvent before payment in full of any debt due from him to any subscriber under the terms and conditions of the agreement relating to the *cheeiu*, that debt shall, notwithstanding anything contained in any other written law to the contrary, be a first charge upon any property acquired or held by him for the purposes of that *cheeiu*.

Manager's liability and right as participant in *cheetu*.

27. Where the terms and conditions of the agreement permit the manager to participate in the *cheeiu* as a subscriber, he shall be liable to pay the same instalments as the other subscribers, and shall be entitled to the last *cheetu* amount.

Continuance of *cheetu* on manager's death or incapacity.

28. When the manager of a *cheetu* dies or is incapacitated by unsoundness of mind, his legal representative or guardian, as the case may be, may in the absence of any provision to the contrary in the agreement, take the place of the manager and continue the *cheetu* or make suitable arrangements for its continuance.

For the purposes of this section legal representative shall mean an executor or administrator, or in the case of an estate below the value of twenty thousand rupees, the next of kin who have inherited the inheritance.

[§4, 24 of 1969.]

Termination of *cheetu*.

29. (1) A *cheetu* shall be deemed to terminate upon the occurrence of any of the following events;—

- (a) on the expiry of the *cheetu* period as specified in the agreement or curtailed by reason of any voluntary reduction of membership duly effected under section 21 ;
- (b) on the failure of the manager to conduct the *cheetu* in accordance with the provisions of the Ordinance, the regulations made thereunder and the terms and conditions of the agreement as lawfully altered for the time being;
- (c) when the manager is adjudicated an insolvent;
- (d) when the legal representative of a deceased manager or the guardian of a manager of unsound mind fails to continue the *cheeiu* or to make suitable arrangements for its continuance as required by section 28.

(2) Upon the termination of a *cheeiu* otherwise than by the expiry of the *cheeiu* period as specified in the agreement or

reduced under section 21, every subscriber who has not purchased a *cheeiu* amount shall be entitled either—

- (a) to recover from the manager or the manager's estate, as the case may be, the aggregate of the actual amounts contributed by that subscriber as instalments under the agreement prior to the termination of the *cheeiu*, or
- (b) to apply to a court of competent jurisdiction, by way of summary procedure under Chapter XXIV of the Civil Procedure Code, for an order—
 - (i) directing each subscriber who has drawn a prize amount in that *cheeiu* to deposit in court upon the due dates the several instalments, which, if the *cheeiu* had not terminated, would have been payable by such subscriber to the manager, until the aggregate of the amounts paid to the manager by that subscriber before the termination of the *cheetu* and of the amounts so deposited in court becomes equal to the *cheetu* amount at the time of the sale at which that subscriber was declared the purchaser; and
 - (ii) declaring that all amounts so deposited in court shall be divided rateably among the subscribers who have not drawn a prize amount in that *cheeiu*, and setting out for that purpose any scheme of distribution that may be necessary.

(3) Where any action is instituted by a subscriber for the enforcement of a claim under paragraph (a) of subsection (2), the manager or the manager's legal representative or guardian, as the case may be, may apply for an order of court under paragraph (b) of subsection (2) in like manner as a subscriber and any sum of money that may be received under such an

order by the subscriber instituting the action, shall be set off against the amount claimed by him in the action.

PART V

SPECIAL PROVISIONS RELATING To COMPANIES. FIRMS AND INDIVIDUALS TRADING UNDER BUSINESS NAMES

Restrictions on operations of companies, Firms, and individuals with business names.

30. It shall not be lawful for any company or firm or for any individual carrying on business under a business name which does not consist of his true full name without any addition, to promote or to form a *cheelu* unless that company or firm or such individual is duly registered and has deposited security in accordance with the provisions of this Part.

Registration of companies, firms, and individuals with business names.

31. (1) Where any company, or firm, or any individual with a business name desires to conduct a *cheelu*, the registration required by section 30 shall be effected at the office of the registrar,

[\$5.34 of 1957.]

* (3) Every application for registration shall be in the prescribed form and shall be presented to the registrar.

[\$5. 34 of 1957.]

(4) Every application for registration made by a company shall be accompanied by such documents as may be necessary to prove to the satisfaction of the registrar—

- (a) that the company has been registered or incorporated under any law relating to joint stock companies in force in Sri Lanka;
- (b) that it has a fully paid-up capital of not less than ten thousand rupees in cash; and
- (c) that it is not carrying on the business of banking or insurance or any business in the nature of banking or insurance or any kind of trade.

(5) Every application for registration made by a firm shall be accompanied by such documents as may be necessary to prove to the satisfaction of the registrar—

(a) that the firm has been registered under any law relating to the registration of business names in force in Sri Lanka ;

(b) that it has a capital of not less than ten thousand rupees in cash; and

(c) that it is not carrying on the business of banking or insurance or any business in the nature of banking or insurance or any kind of trade.

(6) Every application for registration made by an individual with a business name shall be accompanied by such documents as may be necessary to prove in respect of that individual to the satisfaction of the registrar the facts enumerated in subsection (5).

(7) The registrar may in his discretion disallow any application for registration made to him.

(8) If the registrar decides to allow any application, he shall enter the particulars set out therein in a register of *cheelu* promoters, and shall issue to the applicant a certificate of registration in such form as may be prescribed by regulation.

32. If at any time the registrar has reasonable cause to believe that any company, firm, or individual registered under section 31 has ceased to have the capital, or has commenced any kind of business or trade, specified in that section, he may by notice in writing call upon that company, firm, or individual to show cause why the name of the company, firm, or individual should not be removed from the register, and if sufficient cause is not shown he may remove the name accordingly and recall and cancel the certificate of registration.

Cancellation of registration.

33. The certificate of registration issued under section 31, or a certified copy of that certificate, shall, so long as it remains valid, be kept exhibited in a conspicuous position at the principal place of business of the company, firm, or individual or at the place

Certificate of registration

* Subsection (2) is repealed by Act No. 34 of 1957.

+ Joint Stock Companies Ordinance has been repealed by Ordinance No. 51 of 1938, which in turn has been repealed by the Companies Act, No. 17 of 1982.

of business in the district to which the certificate relates, and in the event of its being recalled for cancellation by the registrar, shall be surrendered forthwith.

Security.

34. (1) The registration of any company, firm, or individual under this Ordinance shall not be deemed to authorize the promotion or formation of any *cheetu* until security in respect of that *cheetu* is deposited in accordance with the provisions of this section.

(2) Every such company, firm, or individual shall, in respect of each *cheetu* proposed to be formed by that company, firm, or individual give security for twice the *cheetu* amount of the proposed *cheetu* by hypothecating to the State—

[§6. 34 of 1957.]

(a) a cash deposit of twice the *cheetu* amount made with the registrar; or

(b) securities guaranteed by the Government of Sri Lanka or issued by the Government of Sri Lanka, deposited to the aforesaid value with the registrar.

[§6. 34 of 1957.]

Security to be a prerequisite to registration of agreement.

35. No agreement relating to any *cheetu* purporting to be formed by a company, or firm or an individual with a business name shall be registered until it is proved to the satisfaction of the registrar that security in respect of that *cheetu* has been given under section 34.

Financial limits to be observed.

36. (1) The total value of the *cheetus* conducted at any one time by any company, firm, or individual registered under this Ordinance shall not exceed twenty times the value of the paid-up capital of that company, firm, or individual.

(2) It shall be lawful for the registrar to refuse to register the agreement relating to any *cheetu* promoted by any company, firm, or individual, if he is satisfied that the formation of that *cheetu* will make the total value of the *cheetus* conducted at that time by that company, firm, or individual exceed the limit specified in subsection (1).

(3) For the purposes of this section, the "total value" of a *cheetu* means the aggregate of the *cheetu* amounts that are to

be collected and put up for sale during the period of that *cheetu*.

37. In the registration and the conduct of *cheetus* formed by a company, or firm or an individual with a business name, the duties imposed on the manager of a *cheetu* by the provisions of Parts III and IV, shall be performed—

Application of parts III and IV

(a) in the case of a company, by the officer by whatever name called, who is in executive control of the business of the company,

(b) in the case of a firm, by the managing partner or by any officer appointed by the partners to have the management and executive control of the business of the firm. and

(c) in the case of an individual, by him under the business name and style registered in that behalf.

38. In the case of a *cheetu* conducted by a registered company or firm, the sale of the *cheetu* amounts may, if the terms and conditions of the agreement provide therefor, be effected by way of sealed tenders as an alternative to an auction, if at a duly convened meeting of the subscribers held before the sale of the first *cheetu* amount a majority representing three-fourths of the *cheetu* amount resolves to adopt the method of sealed tenders; and the method adopted for the sale of the first *cheetu* amount shall be followed at each subsequent sale in connexion with that *cheetu*:

Sale by lender as an alternative to auction.

Provided however that in every case where the tenders of two or more subscribers are of the same value, the *cheetu* amount shall be put up for sale by auction among those subscribers, and the initial bid at every such auction shall be the amount set out in the tenders of those subscribers.

39. (1) No company, firm, or individual registered under section 31, shall be entitled to bid or to submit a tender or sha^bid or submit a tender either directly or indirectly, at any sale of a *cheetu* amount

Prohibition of bid or tender by promoters.

held by auction or by tender in connexion with any *cheetu* formed or conducted by that company, firm, or individual.

(2) Any company, firm, or individual registered under section 31, may, in lieu of substituting a new subscriber in the place of each defaulting subscriber, take up the share of one or more defaulting subscribers, and in every such case the company, firm, or individual shall be entitled to take, without an auction or other sale and without any discount, the successive *cheetu* amounts available after the last of the continuing subscribers has purchased his amount.

(3) Whenever a company takes up the share of a defaulting subscriber under subsection (2), a statement of the fact shall be delivered or transmitted to the registrar in like manner as in the case of the substitution of a new subscriber under section 20.

40. All matters in dispute between the subscribers to a *cheetu* and the company or firm or the individual with a business name, conducting that *cheetu* shall be settled by arbitration.

41. (1) In lieu of the provisions of subsection (1) of section 29 the provisions of this section shall apply to a *cheetu* conducted by a company or firm or an individual with a business name.

(2) A *cheetu* conducted by a company shall be deemed to terminate—

- (a) when the *cheetu* period specified in the agreement expires; or
- (b) on the failure of the company to conduct the *cheetu* in accordance with the provisions of the Ordinance, the regulations made thereunder, and the terms and conditions of the agreement as lawfully altered for the time being; or
- (c) when steps are taken for the winding up of the company whether voluntarily or by order of court; or
- (d) when the certificate of registration is cancelled by the registrar under section 32.

(3) A *cheetu* conducted by a firm shall be deemed to terminate—

- (a) when the *cheetu* period specified in the agreement expires; or
 - (b) on the failure of the firm to conduct the *cheetu* in accordance with the provisions of the Ordinance, the regulations made thereunder, and the terms and conditions of the agreement as lawfully altered for the time being; or
 - (c) when the partnership is unable to meet its liabilities or is dissolved; or
 - (d) when the certificate of registration is cancelled by the registrar under section 32.
- (4) A *cheetu* conducted by an individual with a business name shall be deemed to terminate—

- (a) when the *cheetu* period specified in the agreement expires; or
- (b) on the failure of the individual to conduct the *cheetu* in accordance with the provisions of the Ordinance, the regulations made thereunder, and the terms and conditions of the agreement as lawfully altered for the time being; or
- (c) when that individual becomes insolvent, or is incapacitated by unsoundness of mind, or dies; or
- (d) when the certificate of registration is cancelled by the registrar under section 32.

42. In every case of dishonesty, fraud, or gross mismanagement on the part of any company in the conduct of any *cheetu* under this Ordinance, the registrar shall take steps for the compulsory winding up of the company in accordance with the provisions of any written law in force in Sri Lanka in that behalf;

Compulsory winding up of company in case of dishonesty, fraud, or gross mismanagement. [§7,34 of 1957.]

Provided, however, that in the case of a company duly conducting six or more *cheetus* simultaneously, the termination of any one *cheetu*. through any act, omission, or

Disputes to be settled by arbitration.

Termination of a *cheetu* conducted by a company or firm or an individual with a business name.

default on the part of the company, shall not be deemed to be a ground for the compulsory winding up of the company.

PART VI

MISCELLANEOUS

Fees payable to the registrar.

43. (1) Fees at the rates set out in the Schedule shall be paid to the registrar for each of the following:—

- (a) the registration of the agreement and of alterations of the agreement;
- (b) the registration of copies of minutes and other statements for which registration is required under the Ordinance;
- (c) the search for any registered or other document on application made by any person;
- (d) the inspection by any person of any document registered or filed in the office of the registrar;
- (e) the issue of a certified copy or extract of any document registered or filed in the office of the registrar;
- (f) the registration under Part V of a company or firm or an individual with a business name ;
- (g) the certificate of registration issued under Part V, and certified copies thereof.

(2) The fee shall in every case be payable by means of one or more uncanceled stamps of the appropriate value affixed, as the case may be, to the document delivered or transmitted for registration or to the application presented.

Regulations.

44. (1) The Minister may make all such regulations as may be necessary for carrying into effect the principles and provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters, namely:—

- (a) for all matters stated or required in this Ordinance to be prescribed ;
- (b) for varying the fees payable to the registrar as set out in the Schedule ;
- (c) for prescribing the procedure to be adopted by the registrar in registering or filing any document in respect of which special provision is not made by this Ordinance;
- (d) for prescribing the accounts or books to be kept and the forms to be used by the manager of a *cheetu* in any case where express provision is not made by this Ordinance ; and for providing for the periodical inspection of such accounts or books by the registrar or by an officer authorized by the registrar ;
- (e) for prescribing the periods during which the several documents registered or filed in the office of the registrar shall be preserved, and the method of disposal of such documents at the end of those periods.

[§4, 34 of 1957.]

(3) No regulation made under this Ordinance shall have effect until it is approved by Parliament and notification of such approval is published in the Gazette.

45. (1) Every act in contravention of any of the provisions of this Ordinance, and every omission of any duty imposed by this Ordinance, shall be an offence punishable—

Offences and penalties.

- (a) in the case of a first offence, with a fine not exceeding one hundred rupees or with imprisonment of either kind for a period not exceeding one month;
- (b) in the case of a second offence with a fine not exceeding two hundred and fifty rupees, or with imprisonment of either kind for a period not exceeding three months ; and

(c) in the case of a third or any subsequent offence with a fine not exceeding one thousand rupees or imprisonment of either kind for a period not exceeding one year:

by the registrar in respect of any offence, no [§4,34-of criminal proceedings shall be commenced or 1957.] maintained against the offender.

PART VII

Provided, however; that any contravention of section 5 (1) or of section 30 may, notwithstanding that it is a first offence, be punishable in the discretion of the court with a fine not exceeding one thousand rupees or with imprisonment of either kind for a period not exceeding one year.

TRANSITORY PROVISIONS RELATING To "CHEETUS" ACTUALLY CONDUCTED AT THE DATE OF THE COMMENCEMENT OF THE ORDINANCE

(2) Where an offence under this Ordinance is committed by a company, every director of that company and the officer by whatever name called who has the executive control and management of the business of the company, shall severally be deemed to be guilty of the offence and be liable to the penalty specified in that behalf in subsection (1).

46. (1) Within one month after the date on which this Ordinance comes into operation, the manager of every *cheetu* of which the *cheetu* amount exceeds fifty rupees and which is actually being conducted at that date, shall furnish to the Registrar of Lands of the district in which the manager resides or has his place of business, a statement verified by affidavit and containing the terms and conditions of, and the following particulars relating to, that *cheetu*:—

Statement to be furnished by manager.

(3) Where an offence under this Ordinance is committed by a firm, every partner of that firm and the officer by whatever name called who has the executive control and management of the business of the firm, shall severally be deemed to be guilty of the offence and be liable to the penalty specified in that behalf in subsection (1).

(a) the name and address of the manager or of the company, firm, or individual with a business name, conducting the *cheetu*;

(b) the *cheetu* amount;

(c) the date of the formation of the *cheetu*.

(4) Where an offence under this Ordinance is committed by an individual with a business name, the individual shall personally be liable to the penalty specified in that behalf in subsection (1).

(d) the *cheetu* period;

(e) the names and addresses of the subscribers;

(5) Every offence under this Ordinance shall be summarily triable, and any penalty set out in subsection (1) may be imposed, by a Magistrate's Court, notwithstanding that such penalty exceeds the limits imposed on its jurisdiction by any other written law.

(f) the names of the several purchasers of the *cheetu* amounts already sold, and the amount of the respective prizes drawn by them;

(g) the manager's commission ;

(6) In respect of any offence under this Ordinance other than a contravention of section 5 (1) or section 30, the registrar may in his discretion accept from the offender in composition of the offence a penalty not exceeding the amount of the maximum fine prescribed in subsection (1) for that class of offences; and where a penalty is so accepted

(h) the amount distributed up to that date as dividends each month to each of the subscribers.

(2) The Registrar shall have the right to call for any additional information or explanation he may deem necessary as to any *cheetu* to which subsection (1) applies.

[§4,34 of 1957.]

Registration. (3) On receipt of a statement furnished under subsection (1) the Registrar shall enter the particulars set out herein in a register of existing *cheeius*, and shall forward to the registrar the statement and all other information relating to the *cheetu*.

[§4, 34 of 1957.]

Exemption from other provisions of the Ordinance, [§4, 34 of 1957.]

(4) The registrar may of his own motion or on application made by the manager of any *cheetu* registered under this section, exempt that *cheetu* by an order under his hand from the provisions of all or any of the other sections of this Ordinance, either unconditionally or subject to the condition that the manager shall give security for the proper conduct of the *cheetu* by the hypothecation in favour of the State of movable or immovable property approved by the registrar and not less in value than twice the *cheetu* amount of that *cheetu*; and the provisions of all other sections of this Ordinance shall cease to apply to any *cheeiu*

in respect of which an unconditional order is so made or the condition so imposed as to the security to be given is duly fulfilled.

(5) The failure to furnish a statement under subsection (1), or any additional information or explanation called for under subsection (2), in respect of any *cheeiu* to which this section applies or the conducting of any such *cheetu* without fulfilling the condition as to the security to be given where such condition has been imposed by the registrar, shall be an offence punishable with a fine not exceeding one thousand rupees or with imprisonment of either kind for a period not exceeding six months, or with both such fine and imprisonment, after summary trial by a Magistrate's Court notwithstanding that such penalty exceeds the limits imposed on its jurisdiction by any other written law.

Offences and penalties

[§4,34 of 1957.]

SCHEDULE

TABLE OF FEES UNDER SECTION 43 (I)

	Rs.	c.
(a) Registration of agreement-		
Where the <i>cheetu</i> amount does not exceed Rs. 500	5	0
Where the <i>cheetu</i> amount exceeds Rs. 500 but does not exceed Rs. 1,000	10	0
Where the <i>cheetu</i> amount exceeds Rs. 1,000 but does not exceed Rs. 5,000	20	0
Where the <i>cheetu</i> amount exceeds Rs. 5,000	25	0
(b) Registration of minutes of any meeting at which one or more alterations have been made in the agreement		Same rates as in item (a)
(c) Registration of minutes of a meeting at which no alteration has been made in the agreement	0	50
(d) Registration of statements and other matters not falling under (a) and (c) above, for which registration is required under the Ordinance	0	50
(e) Search for any registered or other document on application made by any person For every document	0	50
(f) Inspection by any person of any document registered or filed in the office of the registrar For every document	0	50
(g) Issue of a certified copy or extract of any document registered or filed in the office of the registrar For every 100 words	0	50
(h) Registration under Part V of a company, firm, or individual with a business name	50	0
(i) Certificate of registration issued under Part V or each certified copy thereof	0	50

CHAPTER 248

CITIZENSHIP*

Acts Nos. 18 of 1948,
40 of 1950,
13 of 1955. AN ACT TO MAKE PROVISION FOR CITIZENSHIP OF SRI LANKA AND FOR MATTERS CONNECTED THEREWITH.

[15th November, 1948.]

Short title. **1.** This Act may be cited as the Citizenship Act.

PART II

PART I

CITIZENSHIP BY DESCENT

CITIZENSHIP OF SRI LANKA

Status. **2.** (1) With effect from the appointed date, there shall be a status to be known as "the status of a citizen of Ceylon", and, with effect from the 22nd day of May, 1972, to be known as "the status of a citizen of Sri Lanka".

(1A) Every person who immediately prior to the 22nd day of May, 1972, was a citizen of Ceylon shall, on and after that date, be entitled to be, and to be called, a citizen of Sri Lanka.

(2) A person shall be or become entitled to the status of a citizen of Sri Lanka in one of the following ways only :—

- (a) by right of descent as provided by this Act;
- (b) by virtue of registration as provided by this Act or by any other Act authorizing the grant of such status by registration in any special case of a specified description.

(3) Every person who is possessed of the aforesaid status is hereinafter referred to as a "citizen of Sri Lanka".* In any context in which a distinction is drawn according as that status is based on descent or registration,* a citizen of Sri Lanka is referred to as "citizen by descent"* or "citizen by registration" * ; and the status of such citizen is in the like context referred to as "citizenship by descent"* or "citizenship by registration".*

Citizenship and nationality, **3.** A citizen of Sri Lanka may, for any purpose in Sri Lanka, describe his nationality by the use of the expression "Citizen of Sri Lanka".

4. (1) Subject to the other provisions of this Part, a person born in Sri Lanka before the appointed date shall have the status of a citizen of Sri Lanka by descent, if —

- (a) his father was born in Sri Lanka, or
- (b) his paternal grandfather and paternal great grandfather were born in Sri Lanka.

(2) Subject to the other provisions of this Part, a person born outside Sri Lanka before the appointed date shall have the status of a citizen of Sri Lanka by descent, if—

- (a) his father and paternal grandfather were born in Sri Lanka, or
- (b) his paternal grandfather and paternal great grandfather were born in Sri Lanka.

5. (1) Subject to the other provisions of this Part, a person born in Sri Lanka on or after the appointed date shall have the status of a citizen of Sri Lanka by descent if at the time of his birth his father is a citizen of Ceylon or Sri Lanka.

(2) Subject to the other provisions of this Part, a person born outside Sri Lanka on or after the appointed date shall have the status of a citizen of Sri Lanka by descent if at the time of his birth his father is a citizen of Ceylon or Sri Lanka and if, within one year from the date of birth, or within such further period as the Minister may for good

* See also Article 26 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

cause allow, the birth is registered in the prescribed manner—

- (a) at the office of a consular officer of Sri Lanka in the country of birth, or
- (b) at the office of the Minister in Sri Lanka.

Certificate of citizenship of Sri Lanka by descent in case of doubt.

6. Upon application made in that behalf in the prescribed manner, the Minister may, in his discretion, grant, in the prescribed form, a certificate of citizenship of Sri Lanka by descent to a person with respect to whose status as a citizen of Sri Lanka by descent a doubt exists ; and a certificate issued under this section to any person shall be conclusive evidence that that person was a citizen of Sri Lanka by descent on the date thereof, but without prejudice to any evidence that he was such a citizen at an earlier date.

Foundlings.

7. Every person first found in Sri Lanka as a newly born deserted infant of unknown and unascertainable parentage shall, until the contrary is proved, be deemed to have the status of a citizen of Sri Lanka by descent.

Resumption of citizenship by descent.

8. (1) Any person who ceases under section 19 or section 20 to be a citizen of Sri Lanka by descent may at any time thereafter make application to the Minister for a declaration that such person has resumed the status of a citizen of Sri Lanka by descent ; and the Minister may make the declaration for which the application is made—

- (a) if that person renounces citizenship of any other country of which he is a citizen, in accordance with the law in force in that behalf in that other country ; and
- (b) if that person is, and intends to continue to be, ordinarily resident in Sri Lanka.

(2) Where a declaration is made in relation to any person under subsection (1), that person shall, with effect from such date as may be specified in the declaration, again have the status of a citizen of Sri Lanka by descent.

(3) Any person who makes or has made an application under subsection (1) may,

in his application or by subsequent letter, make a request for the grant to any minor child of that person of the status of a citizen of Sri Lanka by descent ; and if in any such case a declaration under subsection (1) is made in relation to that person, each minor child specified in the declaration shall have the status of a citizen of Sri Lanka by descent.

(4) The Minister may refuse to make a declaration under subsection (1) in relation to any person on grounds of public policy ; and such refusal shall be final and shall not be contested in any court, but without prejudice to the power of the Minister subsequently to make such a declaration in relation to that person.

(5) The Minister may in his discretion exempt any person from the requirements of paragraph (a) of subsection (1) of this section, and make a declaration under that subsection notwithstanding that such person does not comply with the said requirements.

9. (1) Any reference to father, paternal grandfather, or paternal great grandfather in any of the provisions of this Part relating to citizenship by descent shall, in regard to a person born out of wedlock and not legitimated, be deemed to be a reference to mother, maternal grandfather, or maternal great grandfather respectively.

Persons born out of wedlock.

(2) A person shall be deemed, for the purposes of this section, to have been legitimated if his parents married each other subsequent to his birth.

10. Any reference in this Part to the status or description of the father of a person at the time of that person's birth shall, in regard to a person born after the death of his father, be deemed to be a reference to the status or description of the father at the time of the father's death ; and where that death occurred before, and the birth occurs on or after the appointed date, the status or description which would have been applicable to the father had he died on or after that date shall be deemed to be the status or description applicable to him at the time of his death.

Posthumous persons

PART III

CITIZENSHIP BY REGISTRATION

Persons entitled to registration as citizens.

11. (1) This section shall apply to any applicant for registration as a citizen of Sri Lanka who has the following qualifications: -

- (a) that the applicant is of full age and of sound mind :
- (b) that the applicant-
 - (i) is a person whose mother is or was a citizen of Ceylon or Sri Lanka by descent or would have been a citizen of Ceylon or Sri Lanka by descent if she had been alive on the appointed date, and who, being married, has been resident in Sri Lanka throughout a period of seven years immediately preceding the date of the application, or, being unmarried, has been resident in Sri Lanka throughout a period of ten years immediately preceding the date of the application, or
 - (ii) is a person, whose father was a citizen of Ceylon or Sri Lanka by descent, and who would have been a citizen of Ceylon or Sri Lanka under subsection (2) of section 5 if his birth had been registered in accordance with the provisions of that subsection, or
 - (iii) is a person whose father, having been a citizen of Ceylon or Sri Lanka by descent whether at or before the time of the birth of that person, ceased under section 20 to be a citizen of Ceylon or Sri Lanka; and
- (c) that the applicant is, and intends to continue to be, ordinarily resident in Sri Lanka.

(2) Subject to the other provisions of this Part, a person to whom this section applies shall—

- (a) if he has the qualification set out in sub-paragraph (i) of paragraph (b) of subsection (1) of this section, be registered as a citizen of Sri Lanka on his making application in that behalf to the Minister in the prescribed manner, or
- (b) if he has the qualification set out in sub-paragraph (ii) or sub-paragraph (iii) of the aforesaid paragraph (b), be so registered on his making such application, unless the Minister decides to disallow such application on grounds of public policy.

(3) The Minister's refusal, under subsection (2) (b) of this section, to allow the application of any person for registration as a citizen of Sri Lanka shall be final and shall not be contested in any court.

12. (1) Subject to the other provisions of this Part, no person who is the spouse, or the widow or widower, of a citizen of Ceylon or Sri Lanka by descent or registration, shall be registered as a citizen of Sri Lanka under this Act, except in accordance with the succeeding provisions of this section.

Registration of spouse, widow or widower of citizen of Ceylon or Sri Lanka.

(2) A person who desires to be registered as a citizen of Sri Lanka under this section shall send an application in the prescribed form and manner to the prescribed officer.

(3) After the receipt of the application under subsection (2), the prescribed officer shall send the application to the Minister, if he is satisfied that the applicant has the following qualifications :—

- (a) that the applicant has the qualifications specified in paragraphs (a) and (c) of subsection (1) of section 11;
- (b) that the applicant has been resident in Sri Lanka throughout a period of one year immediately preceding the date of the application of such applicant; and

(c) that the applicant is the spouse, or the widow or widower, of a citizen of Ceylon or Sri Lanka by descent or registration.

(4) The Minister may refuse an application sent to him under subsection (3), if he is satisfied that it is not in the public interest to grant the application.

(5) Where the Minister grants an application for registration made under this section by any person, such person shall be registered as a citizen of Sri Lanka.

(6) The Minister's refusal under subsection (4) of this section to allow the application of any person for registration as a citizen of Sri Lanka shall be final and shall not be contested in any court.

Registration, as citizens, of persons to whom section 11 or 12 do not apply.

13. (1) Subject to the other provisions of this Part, a person to whom section 11 or section 12 does not apply may, on his making application in that behalf to the Minister in the prescribed manner, be registered as a citizen of Sri Lanka if the Minister is satisfied—

(a) that he is a person who has rendered distinguished public service or is eminent in professional, commercial, industrial, or agricultural life, and

(b) that he is, and intends to continue to be, ordinarily resident in Sri Lanka.

(2) The number of persons registered as citizens of Sri Lanka under this section shall not exceed twenty-five in any year.

(3) The Minister's refusal under this section to allow the application of any person for registration as a citizen of Sri Lanka shall be final and shall not be contested in any court.

Minor children of applicants for registration as citizens of Sri Lanka.

14. (1) Where an applicant for registration as a citizen of Sri Lanka has any minor child, he may in his application or by subsequent letter make a request for the inclusion of the name of that child in the certificate of registration which may be granted to him under this Part.

(2) Where a request as aforesaid is made by an applicant under section 11 or section 12 or section 13, the Minister may, subject to the other provisions of this Part, comply with the request if the applicant is registered as a citizen of Sri Lanka.

15. (1) Save as provided in section 11, a person who has ceased to be a citizen of Sri Lanka shall not be granted citizenship by registration.

Persons who are not to be granted citizenship by registration.

(2) A person who is a citizen of any country other than Sri Lanka under any law in force in that country shall not be granted citizenship by registration unless he renounces citizenship of that country in accordance with that law.

(3) The Minister may in his discretion exempt any person from the provisions of subsection (2) of this section; and nothing in that subsection shall prevent the registration as a citizen of Sri Lanka of any person so exempted.

16. There shall be kept and maintained in the prescribed form, a register of persons who are granted citizenship by registration.

Register.

17. The Minister shall grant, in the prescribed form, a certificate of registration as a citizen of Sri Lanka to every person who is registered under section 11 or section 12 or section 13 and, where he decides to comply with a request made by that person under section 14, shall include in the certificate the name of every minor child to whom the request relates.

Certificates of registration.

18. (1) An alien to whom a certificate of registration as a citizen of Sri Lanka is granted shall, on subscribing the prescribed oath or affirmation of allegiance and the prescribed oath or affirmation of citizenship, have the status of a citizen of Sri Lanka by registration as from the date of that certificate.

Effect of certificates of registration.

(2) A minor child whose name is included in a certificate of registration as a citizen of Sri Lanka shall have the status of a citizen of Sri Lanka by registration as from the date of that certificate.

PART IV

Loss OF CITIZENSHIP

Renunciation of citizenship of Sri Lanka.

19. If a citizen of Sri Lanka of full age and of sound mind makes a declaration of renunciation of citizenship of Sri Lanka in the prescribed manner, the Minister shall cause the declaration to be registered, and, upon registration thereof, the declarant shall cease to be a citizen of Sri Lanka :

Provided however that the Minister may withhold registration of such declaration if it is made during the continuance of any war in which Sri Lanka is engaged and if, by the operation of any law enacted in consequence of that war, the declarant is deemed for the time being to be an enemy.

Restrictions against dual citizenship of persons who are citizens by descent.

20. (1) Where a person born before the appointed date is a citizen of Ceylon by descent and is also on that date a citizen of any other country, that person shall—

(a) on the 31st day of December, 1952, or

(b) on the day on which he attains the age of twenty-two years,

whichever day is in his case the later, cease to be a citizen of Ceylon, unless before that day he renounces citizenship of that other country in accordance with the law therein in force in that behalf and notifies such renunciation to a prescribed officer.

(2) Where a person is a citizen of Ceylon or Sri Lanka by descent and that person, by operation of law, is at the time of his birth or becomes thereafter, also a citizen of any other country, that person shall—

(a) on the 31st day of December, 1952, or

(b) on the day immediately succeeding the date of the expiration of a period of twelve months from the date on which he so becomes a citizen of that other country, or

(c) on the day on which he attains the age of twenty-two years,

whichever day is in his case the latest, cease to be a citizen of Sri Lanka, unless before that day he renounces citizenship of that other country in accordance with the law therein in force in that behalf and notifies such renunciation to a prescribed officer.

(3) A person who, under subsection (2) of section 5, is a citizen of Sri Lanka by descent but whose father is or was a citizen of Ceylon or Sri Lanka by registration, shall, on the day on which he attains the age of twenty-two years, cease to be a citizen of Sri Lanka, unless before that day he transmits to the Minister in the prescribed manner and form a declaration of retention of citizenship of Sri Lanka-

(4) In the case of any person to whom the provisions of any of the preceding subsections apply, the Minister may in his discretion direct that those provisions shall apply in that case subject to the modification that the reference therein to the age of twenty-two years shall be construed as a reference to such higher age as may be specified in the direction.

(5) A person who is a citizen of Sri Lanka by descent shall cease to be a citizen of Sri Lanka if he voluntarily becomes a citizen of any other country.

(6) Where a person who, having been exempted from the requirements of paragraph (a) of subsection (1) of section 8, resumes the status of a citizen of Sri Lanka by descent by virtue of a declaration under that subsection, that person shall, on the day immediately succeeding the date of the expiration of a period of three months (or such longer period as the Minister may for good cause allow) from the date of the declaration, cease to be a citizen of Sri Lanka, unless he earlier complies with the requirements of the aforesaid paragraph (a).

21. (1) A person who is a citizen of Sri Lanka by registration shall cease to be a citizen of Sri Lanka if he voluntarily becomes a citizen of any other country.

Restrictions against dual citizenship of persons who are citizens by registration.

(2) Where a person who is registered as a citizen of Sri Lanka thereafter becomes, by operation of law, also a citizen of any other

country, that person shall—

- (a) on the day immediately succeeding the date of the expiration of a period of three months (or such longer period as the Minister may for good cause allow) from the date on which he so becomes a citizen of that other country, or
- (b) on the day on which he attains the age of twenty-two years,

whichever day is in his case the later, cease to be a citizen of Sri Lanka, unless before that day he renounces citizenship of that other country in accordance with the law therein in force in that behalf and notifies such renunciation to a prescribed officer.

(3) Where any person—

- (a) who, having been exempted from the provisions of subsection (2) of section 15, is registered under this Act as a citizen of Sri Lanka, or
- (b) who is registered under the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949*, as a citizen of Ceylon or Sri Lanka,

continues after such registration to be a citizen of any other country, that person shall—

- (i) on the day immediately succeeding the date of the expiration of a period of three months (or such longer period as the Minister may for good cause allow) from the date of his registration as a citizen of Ceylon or Sri Lanka, or
- (ii) on the day on which he attains the age of twenty-two years,

whichever day is in his case the later, cease to be a citizen of Ceylon or Sri Lanka, unless before that day he renounces citizenship of that other country in accordance with the law therein in force in that behalf and notifies such renunciation to a prescribed officer.

22. In any case where any person purports to renounce citizenship of any country for the purpose of acquiring, retaining or resuming, under any provision of this Act, the status of a citizen of Sri Lanka, and it is found at any time that the renunciation was not in accordance with or not effective under the law in force in that behalf in such other country, that person shall be deemed never to have acquired, retained or resumed, under that provision, the status of a citizen of Sri Lanka; and if the Minister makes a declaration to that effect in any such case, the declaration shall be final and shall not be contested in any court.

Cases of invalid or ineffective renunciations of foreign citizenship.

23. A person who is a citizen by registration shall cease to be a citizen of Sri Lanka if that person resides outside Sri Lanka for five consecutive years/ or more, exclusive of any period during which that person—

Residence outside Sri Lanka for five consecutive years.

- (a) is employed abroad as an officer in the service of the Government of Sri Lanka, or
- (b) is abroad as a representative of the Government of Sri Lanka, or
- (c) being the spouse or minor child of a citizen of Sri Lanka who is abroad in any of the capacities specified in paragraphs (a) and (b) of this section, resides abroad with that citizen, or
- (d) resides abroad on a holiday or for reasons of health, or
- (e) is a student at an educational institution abroad, or
- (f) resides abroad with a spouse who is a citizen of Sri Lanka by descent, or
- (g) is abroad for any prescribed purpose.

24. (1) Where the Minister is satisfied that a person who is a citizen of Sri Lanka by registration -

Declaration by Minister of loss of citizenship in specified circumstances.

- (a) has been convicted of an offence under this Act, or

• See List of enactments omitted from the Revised Edition.

- (b) has been convicted of any offence under Chapter VI of the Penal Code; or
- (c) was registered as a citizen of Sri Lanka by means of fraud, false representation, or the concealment of material circumstances or by mistake; or
- (d) has, within five years after the date of registration as a citizen of Ceylon or Sri Lanka, been sentenced in any court to imprisonment for a term of twelve months or more; or
- (e) has, since the date of his becoming a citizen of Ceylon or Sri Lanka by registration, been for a period of not less than two years ordinarily resident in a foreign country of which he was a national or citizen at any time prior to that date, and has not maintained a substantial connexion with Sri Lanka; or
- (f) has taken an oath or affirmation of, or made a declaration of, allegiance to a foreign country; or
- (g) has so conducted himself that his continuance as a citizen of Sri Lanka is detrimental to the interests of Sri Lanka,

the Minister may by order declare that such person shall cease to be such a citizen, and thereupon the person in respect of whom the order is made shall cease to be a citizen of Sri Lanka by registration.

(2) Before the Minister makes any order in relation to a person to whom paragraph (g) of subsection (1) of this section applies, he shall refer that person's case for inquiry by one or more persons appointed by him, with such qualifications as may be prescribed. The person or persons who have been authorized to make an inquiry under the preceding provisions of this section shall, as soon as the inquiry is completed, make a written report to the Minister. He shall not make any order under subsection (1) of this section without carefully considering such report.

(3) Where a person ceases to be a citizen of Sri Lanka under subsection (1) of this section, the Minister may by order direct that all or any of the persons specified in the following paragraphs shall cease to be citizens of Sri Lanka, and thereupon they shall cease to be citizens:—

- (a) all or any of the minor children of such person who have been included in the certificate of registration issued to him at the time of his registration, and
- (b) the spouse, widow or widower of such person, if such spouse, widow or widower was registered under this Act.

PART V

MISCELLANEOUS

25. Any person who, for the purpose of Offence. procuring anything to be done or not to be done under this Act, makes any statement which he knows to be false in a material particular shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding three months.

26. Every person to whom a certificate Fees. under this Act is granted shall, in respect of that certificate, pay, in the prescribed manner, a fee according to the prescribed rates.

27. (1) The Minister may make Regulations. all such regulations as may be necessary for giving effect to the provisions of this Act, and in particular for prescribing any matter which is stated or required to be prescribed.

(2) No regulation made by the Minister shall have effect until it has received the approval of Parliament and notification of such approval is published in the Gazette.

28. (1) In this Act, unless the context Interpretation. otherwise requires—

"alien" means a person who is not a citizen of Sri Lanka by descent;

"appointed date" means the 15th day of November, 1948;

" consular officer of Sri Lanka " includes an Ambassador, a High Commissioner, a Commissioner, a representative, or a Trade Commissioner, of Sri Lanka;

"minor child" means a person who has not attained the age of twenty-one years ;

" prescribed " means prescribed by regulation made under this Act.

(2) For the purposes of this Act a person of full age is a person who has attained the age of twenty-one years.

CHAPTER 563

CEMETERIES AND BURIAL GROUNDS

Ordinances AN ORDINANCE TO CONSOLIDATE THE LAW RELATING TO CEMETERIES AND BURIAL
 Nos. 9 of 1899 GROUNDS.
 9 of 1921,
 3 of 1923,
 14 of 1929,
 7 of 1931,
 14 of 1937,
 61 of 1939.
 3 of 1946,
 57 of 1946,
 29 of 1947.

[1st January, 1900.]

CHAPTER I

PRELIMINARY

Short title. **1.** This Ordinance may be cited as the Cemeteries and Burials Ordinance.*

Existing Proclamations, regulations, notices, by-laws, &c.. to be in force until repealed. **2.** Every Proclamation, regulation, notice, by-law, and public order, made or purporting to be made under any enactment repealed by Ordinance No. 9 of 1899 and of force at the time of this Ordinance coming into operation, shall continue and be as if this Ordinance had not been passed, but so that the same shall be as valid and may be revoked, altered, or otherwise dealt with under this Ordinance as if it had been made under this Ordinance, and any contravention or breach thereof of which, after the coming into operation of this Ordinance, any person is guilty, may be punished in like manner as if it were a contravention, or breach of a regulation, by-law, or public order made under this Ordinance.

Interpretation. **3.** In this Ordinance, unless the context otherwise requires—

" administrative region " means an administrative region defined by Order made under section 2 of the Local Government (Administrative Regions) Ordinance;

"burial ground" means any land or ground (other than a general cemetery) used for the burial or cremation of the dead at the time of the coming into operation of this Ordinance, or subsequently approved by the Minister in manner provided in Chapter III for the purposes of burying or cremating the dead;

" cemetery " means any general cemetery established under the provisions of Ordinance No. 12 of 1862 or of this Ordinance;

" proper authority " means in the case of an area situated within a Municipality, or an Urban Council established under the Urban Councils Ordinance, or a Town Council, such Municipality, Urban Council, or Town Council, and in the case of every other town, village, or place, the Assistant Commissioner of Local Government for the administrative region within which such town, village, or place is situated.

4. All Proclamations, regulations, notices, by-laws, and public orders made and issued under this Ordinance shall be published in the Gazette. Proclamations, &c., to be published in Gazette.

* Primary Court has exclusive jurisdiction in respect of all offences under this Ordinance under Section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

+ Repealed by Ordinance No, 9 of IS99.

CHAPTER II

GENERAL CEMETERIES

Minister may establish cemetery;

5. (1) The Minister may, when to him it shall seem advisable, by Order, establish a general cemetery for the burial or cremation of the dead within such limits as shall be specified and defined in such Order; and may by like Order add to or reduce or otherwise alter the area of any cemetery heretofore or to be hereafter established.

and prohibit burials elsewhere;

(2) Whenever a cemetery is established as aforesaid the Minister may, from time to time, order that, after a time to be mentioned in the order, burials or cremations in every or any other cemetery or burial ground within such limits shall be wholly or partially discontinued.

and exempt cemeteries from parts of Ordinance.

(3) The Minister may exempt either wholly or in part any cemetery heretofore or hereafter established from the operation of sections 10, 15, 16, and 23 or any of them, and may, from time to time, withdraw or renew such exemption; and the granting, withdrawal or renewal of any such exemption shall be published in the Gazette.

Lands to be provided for the purpose.

6. It shall be the duty of the Municipal Council of a Municipal town, and of the Urban Council or Town Council of a town for which an Urban Council or Town Council is constituted, on the request of the Minister, to provide land for the purpose of the establishment of a general cemetery for the burial or cremation of persons dying within the limits of such town, or for the addition to the area of any cemetery heretofore or to be hereafter established.

Sale of closed burial grounds prohibited.

7. No land which shall have been consecrated or exclusively set apart for the burial of the dead, and in which burials shall have been discontinued under the provisions of Ordinance No. 12 of 1862* or of this Ordinance, shall be sold, disposed of, or made any use of for any purpose whatsoever without the permission of the Minister; and every sale and disposal of such land without the permission aforesaid shall be null and void; and any person making any use of such land without the permission of the Minister shall be guilty of an offence, and be liable on conviction to a fine not exceeding one thousand rupees.

8. No part of any cemetery shall be constructed nearer to any dwelling house than fifty feet, except with the consent in writing of the owner, lessee, and occupier of such dwelling house.

Cemetery to be at a distance from houses.

9. The proper authority may authorize the erection of chapels and other buildings for the performance of burial services or cremation within the limits of a cemetery,

Chapels, &c., may be built.

10. Every cemetery and every portion of a cemetery set apart as a ground for cremation shall be enclosed by the proper authority with substantial walls or iron railings of the height of six feet at least, which shall be kept in complete repair.

Cemetery to be enclosed.

11. (1) The proper authority may sell a portion of any cemetery for the special use of any religious denomination applying for the same, and the portion so sold shall for the purposes of this Ordinance, but for no other purpose whatever, vest in the person or persons to whom such portion has been or may hereafter be conveyed by deed executed by the proper authority in trust for such denomination.

Appropriation of the cemetery.

(2) It shall be lawful for such person or persons acting as trustee or trustees to appoint, from time to time, a board of management consisting of three or more members; and such board, or a majority of the members thereof, may exercise any of the following powers in respect of such portion :—

Trustees may appoint board of management.

Powers of board.

(a) power to appoint a caretaker, grave-diggers, and other servants necessary for the care and use of such portion of any cemetery;

(b) power to grant the exclusive right of burial in any plot or plots of land within such portion, or the right of one or more burials therein, or the right of placing any monument or gravestone over any grave, or any tablet or monumental inscription on the walls of any chapel or building within such portion ;

(c) power to prohibit cremation within any such portion.

* Repealed by Ordinance No, 9 of 1899.

Every grant under this section shall be in writing and signed by a member of, or by the caretaker appointed by, such board in the presence of one or more witnesses, and shall be issued on payment of such fee or fees as such board shall determine, with the approval of the Minister.

(3) The fees payable under this section shall be paid to and appropriated by the board of management of such portion irrespective of any fees payable to the keeper of the cemetery under the provisions of section 22, and the same shall be applied by such board to the proper upkeep and maintenance of such portion.

(4) Nothing herein contained shall relieve the keeper of any cemetery appointed by the proper authority under section 16 from the duties imposed upon him by section 23 ; but no such keeper shall execute any grant under section 20 in respect of any portion of such cemetery which is set apart for the special use of any religious denomination.

12. No part of any cemetery shall be used for any purpose except for the purpose of a cemetery ; and any person making any other use of such land, except for the burial or cremation of the dead and purposes relative to such burial or cremation, shall be guilty of an offence, and liable on conviction to a fine not exceeding two hundred rupees for every such offence.

13. Any clerk in holy orders, minister, priest, or other person may perform the services of his religion, at the request of the executor of the will of any deceased person, or at the request of any other person having the charge of the body of any deceased person.

14. No corpse buried in any part of any cemetery shall be removed from its place of burial without the authority of a District Court having jurisdiction over the limits thereof;

Provided that nothing in this section shall be taken to limit any powers now existing to order a post-mortem examination for the purposes of the criminal law.

15. All burials and cremations shall be registered in register books to be kept for that purpose by the keeper of the cemetery hereinafter mentioned, or where a caretaker

has been appointed by a board of management under the provisions of section 11, by the caretaker appointed by such board ; and such register books or certified copies or extracts therefrom shall be received in all courts as prima facie evidence of such burials and cremations, and copies or transcripts thereof shall be, from time to time, sent to such officer as shall be appointed by the Minister for such purpose.

16. The proper authority shall appoint a keeper, grave-diggers, and other servants necessary for the care and use of the cemetery, and may pay them such salary, wages, and allowances as he may think fit, and may remove them or any of them at his pleasure.

17. The proper authority may make regulations—

- (a) for ensuring that all burials within the cemetery are conducted in a decent and solemn manner, and that the graves are of a proper depth;
- (b) for setting apart any portion of any cemetery not included in the portions sold under section 11 as a ground for cremation, and regulating the manner in which such cremation shall be carried out;
- (c) for preventing the reopening of graves within specified periods ; and
- (d) for defining the duties of cemetery keepers, caretakers, and grave-diggers.

18. No corpse shall be buried in any vault under any chapel or building of the cemetery, or within five feet of the outer wall of any such chapel or building; and every person who shall bury, or cause or permit or suffer any corpse to be buried contrary to the provisions of this section shall be guilty of an offence, and be liable on conviction to a fine not exceeding three hundred rupees.

19. (1) The proper authority may sell, or, with the sanction of the Minister, make free grants of portions of the cemetery not included in the portions sold under section 11 of this Ordinance, either in perpetuity or for a limited time, and, subject to any conditions which he may think fit, the

Proper authority to appoint a keeper, grave-diggers, &c.

Regulations for ensuring decency, solemnity, and deep graves.

No burials under or close to chapels or buildings.

Portions of cemetery may be set apart for exclusive burial.

Cemetery to be used for burials or cremations only.

Clerk in holy orders may perform services.

Corpse not to be removed without authority.

Burials to be registered.

CEMETERIES AND BURIAL GROUNDS [Cap. 563]

exclusive right of burial in any such portions of the cemetery so sold or granted, or the rights of one or more burials therein, and may sell or grant the right of placing any monument or gravestone in any part of the cemetery not included in the portions sold under section 11, or any tablet or monumental inscription on the walls of any chapel or other building within any such part-

(2) All moneys realized by the sale of any portion or portions of a cemetery under the provisions of section 11, or by any sale under the provisions of this section shall, if the cemetery be in a Municipal town, be paid into the Municipal Fund, if within the limits of an Urban Council or Town Council into the funds of such Council, and in any other case into the Consolidated Fund.

Form of grant of right of exclusive burial.

20. The grant under section 19 of the exclusive right of burial in any part of a cemetery, and of the right of one or more burials therein, or of placing therein any monument, tablet, or gravestone, shall be made in either one of the forms A or B in the Schedule, or to the like effect, and shall be executed by the cemetery keeper in the presence of two witnesses.

Register of grants to be kept.

21. (1) A register of all such grants shall be kept by the cemetery keeper, and within fourteen days after the date of any such grant a memorial of the date thereof and of the parties thereto, and also of the consideration if any for such grant, and also a proper description of the ground described in such grant so that the situation thereof may be ascertained, shall be made by the said keeper in such register:

Provided always that whenever a portion of a cemetery has been heretofore set apart under section 12 of Ordinance No. 12 of 1862,* or shall hereafter be sold for the special use of any religious denomination under section 11, the register for such portion of the cemetery shall be kept by the caretaker appointed under that section.

(2) The cemetery keeper shall be entitled to demand from the grantee such sum as the proper authority shall think fit, not

exceeding one rupee for every memorial; and the register kept by the cemetery keeper shall be open to inspection at all reasonable hours by any grantee or assignee of any right conveyed to him upon payment of the sum of fifty cents to the cemetery keeper.

22. (1) The proper authority shall make regulations as to the fees to be paid to the cemetery keeper, and the fees for the performance of burial services in respect of any portion of any cemetery not sold or set apart for the special use of any religious denomination, and the fees for digging graves and for cremations, and such other services in any cemetery situated within the territorial limits of such proper authority,

The proper authority to make regulations as to fees, &c.

(2) The fees payable under this section in respect of any portion of any cemetery sold or set apart for the special use of any religious denomination shall be paid to the cemetery keeper irrespective of any fees payable to the board of management for such portion under the provisions of section 11.

23. The proper authority shall cause a plan of the cemetery to be made upon a scale sufficiently large to show the situation of every burial place in all parts of the cemetery so set apart and in which an exclusive right of burial has been granted; and all such burial places shall be numbered, and such numbers shall be entered in a book to be kept by the cemetery keeper for that purpose, and such book shall contain the names and descriptions of the several persons to whom the exclusive right of burial in any such place of burial has been granted; and no place of burial with exclusive right of burial therein shall be made in the cemetery without the same being marked out in such plan and a corresponding entry made in the said book; and the said plan and book shall be kept by the cemetery keeper and shall be open to public inspection at all reasonable hours on payment of such fee as the proper authority shall appoint.

Plan and book of reference to be open to inspection.

24. Every assignment of an exclusive right of burial may be in the form C in the Schedule or to the like effect, and shall be

Form of assignment of an exclusive right of burial.

* Repealed by Ordinance No. 9 of 1899.

valid if executed before one or more witnesses; and every such assignment shall within six months after the execution thereof if executed in Sri Lanka or within six months after the arrival thereof in Sri Lanka if executed elsewhere, be produced to the keeper of the cemetery, or in the case of a portion of a cemetery which has been heretofore set apart under section 12 of Ordinance No. 12 of 1862,* or shall hereafter be sold for the special use of any religious denomination under section 11, to the board of management of such denomination; and a memorial of such assignment shall be made in the register by the cemetery keeper or board, as the case may be, in the same manner as that of the original grant; and until such memorial no right of burial shall be acquired under any such assignment; and for every such memorial the cemetery keeper or board shall be entitled to demand such sum as the proper authority shall think fit, not exceeding one rupee.

Assignment to be registered.

Exclusive right of burial not to be disturbed without consent.

Removal of monuments improperly erected.

When proper authority refuses to exercise powers conferred by sections 9, 11 and 19, Minister may exercise them.

25. No corpse shall be buried in any place wherein the exclusive right of burial shall have been granted, except with the consent of the owner for the time being of such exclusive right of burial.

26. The board of management in respect of any portion of a cemetery sold under section 11, and the proper authority in respect of the remaining portion of such cemetery, may cause to be taken down and removed any gravestone, monument, tablet, or monumental inscription which shall have been erected without its or his authority respectively.

27. Whenever the proper authority shall refuse to authorize the erection of a chapel or other building for the performance of burial services or cremation within the limits of any general cemetery or to sell a portion thereof for the special use of any religious denomination applying for the same, or for the purpose of exclusive right of burial therein, or shall demand for the sale of any such portion a sum of money which appears to such denomination to be excessive, it shall be lawful for the Minister, on application by such denomination, if it should seem expedient, to exercise in respect

of such cemetery all or any of the powers conferred on the proper authority by the provisions of sections 9, 11 and 19, or any of them.

28. Every person who shall wilfully destroy or injure any building, wall, or fence belonging to any cemetery, or destroy or injure any tree or plant therein, or who shall daub or disfigure any wall thereof, or put up any bill thereon or on any wall thereof, or wilfully destroy, injure, or deface any monument, tablet, inscription, or gravestone within any cemetery, or do any other 'vilful damage therein, shall be guilty of an offence and be liable on conviction to a fine not exceeding one hundred rupees,

Penalty for damaging the cemetery.

29. Every person who shall play at any game or sport or discharge firearms, save at a military funeral, in any cemetery, or who shall wilfully or unlawfully disturb any persons assembled in any cemetery for the purpose of burying or cremating any corpse therein, or who shall commit any nuisance within any cemetery, shall be guilty of an offence and be liable on conviction to a fine not exceeding one hundred rupees.

Penalty on persons playing at any game or discharging firearms or committing any nuisance in the cemetery.

30. Any person committing any breach of any regulations made in virtue of this Ordinance shall be guilty of an offence and be liable on conviction to a fine not exceeding one hundred rupees.

Breach of regulations.

CHAPTER III

BURIAL GROUNDS

31. In this Chapter the term "place of public worship" shall include all cathedrals, churches, temples of every description, mosques of every description, and chapels other than chapels erected in a cemetery or burial ground and used exclusively for the purpose of reading burial services therein.

Definition of "place of public worship".

32. The Minister may, from time to time, order that after a time to be mentioned in such order it shall not be lawful to bury or cremate any corpse or coffin in any place of public worship or within a specified area about the same; and every person who shall, after the time

Burials in places of public worship, &c., forbidden.

* Repealed by Ordinance No. 9 of 1899.

mentioned in such order, bury or cremate, or cause, permit, or suffer any corpse or coffin to be buried or cremated contrary to the provisions of this section, shall be guilty of an offence, and liable on conviction to a fine not exceeding three hundred rupees.

33. No new burial ground shall be provided and used in any town, district, or place without the previous approval of the Minister, on the recommendation of the proper authority, and such approval shall be signified by notice in the Gazeite. Every application for a new burial ground shall be accompanied by a plan prepared by a surveyor licensed under the Surveyors Ordinance, and showing clearly the position of such burial ground.

34. In case it appears to the Minister, upon the representation of the proper authority, that any burial ground situated in any town, district, or place is in such a state or locality as to be dangerous to the health of the inhabitants of such town, district, or place, it shall be lawful for the Minister, to order that, after a time to be mentioned in the order, burials or cremations in any such burial ground shall be discontinued; and every such order shall be published in the Gazette.

35. After the time mentioned in any such order it shall not be lawful to bury or cremate any corpse in any burial ground mentioned in such order: and every person who after such time as aforesaid shall bury or cremate, cause, permit, or suffer to be buried or cremated, or assist in burying or cremating any corpse contrary to this section, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding three hundred rupees.

36. It shall be lawful for the proper authority to call upon the trustees, managers, or proprietors of any burial ground, or upon the person having sole or principal charge thereof, to enclose or to clear the same of jungle or underwood, within a reasonable time to be determined by the proper authority; and in case of non-compliance with such requisition it shall be lawful for the proper authority to cause any such burial ground to be properly enclosed

or cleared of jungle or underwood at the expense of such trustees, managers, proprietors, or person having sole or principal charge thereof as aforesaid.

37. No corpse buried in any part of any burial ground shall be removed from its place of burial without the authority of the District Court within the jurisdiction of which such burial ground is situated :

Corpse not to be removed from burial ground without authority.

Provided that nothing in this section shall affect or limit the provisions of section 373 of the Code of Criminal Procedure Act.

38. It shall be lawful for the proper authority, from time to time, to make by-laws for the following purposes:—

By-laws.

- (a) for the inspection of burial grounds ;
- (b) for the proper regulation of the burial and cremation of corpses in such burial grounds, and for ensuring that the graves are of proper depth;
- (c) for the registration of burial grounds within specified areas, the limits of which shall be therein defined ;
- (d) and generally for the proper management, regulation, preservation, and control of all burial grounds, and for the maintenance of order, decency, and cleanliness within the limits thereof,

and such by-laws at any time to repeal, alter, or amend.

39. Such by-laws shall not be of any force or effect unless and until they shall be submitted to and confirmed by the Minister, who is hereby empowered to alter, amend, or disallow the same, or any repeal, alteration or amendment thereof as he may think proper; and all such by-laws and any repeal, alteration, or amendment thereof shall be published in the Gazette :

By-laws to be confirmed by Minister.

Provided, however, that all such by-laws shall be laid before Parliament if Parliament is in session within one month of such publication, and if not in session within one month of the commencement of the session

New burial grounds to be approved by the Minister.

When burials and cremations in burial ground shall be discontinued.

Burial or cremation not to take place after order of discontinuation.

Burial grounds to be enclosed and kept clear of jungle.

next ensuing, and in either case they shall lie on the table during four sittings of Parliament, and any by-law which has been disapproved by a resolution of Parliament shall cease to have any force or effect.

CHAPTER IV

PENAL PROVISIONS AND POWERS OF COURTS

Burials and cremations in unregistered burialground or in a place other than a general cemetery prohibited.

40. From and after the expiration of three months from the date of the publication in the Gazette of by-laws providing for the registration of burial grounds within specified areas, it shall not be lawful to bury or cremate any corpse in any place within such specified areas other than a general cemetery established under the provisions of this Ordinance or of the Ordinance No. 12 of 1862,* or a burial ground registered in the manner prescribed by such by-laws; and every person who shall after the expiry of three months as aforesaid, contrary to the provisions of this section, bury or cremate, or cause, permit, or suffer to be buried or cremated, or assist in burying or cremating a corpse, shall be guilty of an offence, and liable on conviction thereof to a fine not exceeding three hundred rupees:

Provided that it shall be lawful for the proper authority, or, where the proper authority is a Municipality, Urban Council, or Town Council, for the Mayor or Chairman of such proper authority, at any time to grant permission to bury or cremate any corpse in any place other than a general cemetery established under the provisions of this Ordinance or of the Ordinance No. 12 of 1862,* or a burial ground registered in the manner prescribed by such by-laws, and the provisions of this section shall not apply to any such burial or cremation.

* Repealed by Ordinance No. 9 of [899.

t Primary Court has exclusive jurisdiction in respect of all offences under this Ordinance under section 33 of the Judicature Act read with Ga/eili: Extraordinary No. 43, 4 of 1979-07-02.

41. The breach of any by-law made and published under this Ordinance shall be an offence, and any person convicted of any such breach shall be liable to a fine not exceeding three hundred rupees, and in the case of a continuing offence to a further fine not exceeding one hundred rupees for each day on which the offence is continued.

Breach of by-laws made an offence.

42. Magistrates' Courts are hereby empowered to deal summarily with all cases instituted under this Ordinance or any by-law made in pursuance thereof, and to impose the full penalties herein prescribed, anything in the Code of Criminal Procedure Act, or any other enactment to the contrary notwithstanding.

Magistrates' Courts empowered to deal with offences.

43. No prosecution shall be instituted against any person for an offence against the provisions of this Ordinance unless the same shall be commenced within three months from the commission of the offence.

Limitation of prosecution.

44. It shall be lawful for the court before which any conviction under this Ordinance shall take place to award to the person who may have given information of the offence such share of any fine actually recovered, not exceeding the half of the sum recovered, as the court may deem fit.

Informer's share of penalty.

45. Subject to the provisions in section 44 contained, all fines recovered in respect of any offence under this Ordinance or for the breach of any by-law made in pursuance thereof shall, if the fine was for an offence committed in an area situated within a Municipality, or an Urban Council, or Town Council, be paid to such Municipality, Urban Council or Town Council, as the case may be, and in all other cases to the Consolidated Fund.

Disposal of fines.

CEMETERIES AND BURIAL GROUNDS [Cap. 563]

SCHEDULE

FORM A

FORM OF GRANT OF BURIAL PLACE IN CEMETERY

[Section 20.]

Whereas by an order of Government dated the day of issued under the Cemeteries and Burials Ordinance, a general cemetery was established at of which I, the undersigned, am the cemetery keeper :

Now I, in consideration of the sum of Rs. paid to me by of do, as such cemetery keeper as aforesaid, and under the provisions of the said Ordinance, hereby grant unto the said the exclusive right of burial in (*here describe the ground intended to be granted*), to hold the same to the said for ever for the purposes of burial.

Given under my hand this day of 19.....

Cemetery Keeper.

FORM B

FORM OF FREE GRANT OF BURIAL PLACE IN CEMETERY

[Section 20.]

Whereas by an order of Government dated the day of issued under the Cemeteries and Burials Ordinance, a general cemetery was established at of which I, the undersigned, am the cemetery keeper :

And whereas the Minister has approved the making of a free grant of the rights hereinafter granted to the person within named:

Now I, as such cemetery keeper as aforesaid and under the provisions of the said Ordinance, do hereby grant unto the exclusive right of burial in (*here describe the ground intended to be granted*) to hold the same to the said for ever for the purpose of burial, subject always to the conditions set forth in the schedule of conditions hereunto annexed.

Given under my hand this day of 19.....

Cemetery Keeper.

FORM C

FORM OF ASSIGNMENT OF RIGHT OF BURIAL

[Section 24.]

I, A. B., of in consideration of the sum of Rs. paid to me by C. D., of do hereby assign unto the said C. D., the exclusive right of burial in (*here describe the place*), and numbered on the plan of the cemetery made in pursuance of the Cemeteries and Burials Ordinance, which was granted to me for ever by a grant bearing date the day of and all my estate, title, and interest therein, to hold the same unto the said C. D. for ever, subject to the conditions to which i held the same immediately before the execution hereof.

Witness my hand this day of 19.....

(Signed) A. B.

CHAPTER 512

CEYLON ASSOCIATION FOR THE MENTALLY RETARDED

Act
No. 10 of 1971.

AN ACT TO INCORPORATE THE CEYLON ASSOCIATION FOR THE MENTALLY RETARDED.

[27th February, 1971.]

Short title.

1. This Act may be cited as The Ceylon Association for the Mentally Retarded (Incorporation) Act.

(e) to establish and maintain additional homes for the mentally retarded.

Incorporation of The Ceylon Association for the Mentally Retarded.

2. (1) From and after the date of the commencement of this Act, the members for the time being of The Ceylon Association for the Mentally Retarded (hereinafter referred to as the "Association") and such and so many persons as shall after that date be admitted members of the said Association shall be and are hereby constituted a body politic and corporate (hereinafter referred to as the "Corporation") with the name of The Ceylon Association for the Mentally Retarded.

(f) to establish a counselling service where parents and others engaged in work with mentally retarded could meet and discuss problems and obtain advice.

(g) to promote the training of personnel involved in the care and education of the mentally retarded.

(h) to act as a national advisory body for the promotion of services for the mentally retarded.

(i) to encourage and foster research in the field of the mentally handicapped.

(j) to co-operate and co-ordinate with other agencies local and international dealing with the mentally retarded.

(2) The Corporation shall, in the said name and for the purpose hereinafter mentioned have perpetual succession, and may by the said name sue and be sued in all courts, and shall have full power and authority to use a common seal and to alter the same at its discretion.

General objects of the Corporation.

3. The general objects for which the Corporation is constituted are hereby declared to be—

(a) to foster and promote medical, educational, vocational and spiritual service for the mentally retarded children and adults.

(b) to provide training and employment for the mentally retarded.

(c) to foster interest in mentally retarded children having physical disabilities as well.

(d) to educate parents and the public in the care of the mentally retarded.

4. The affairs of the Corporation shall be administered by an executive body called the Executive Committee composed of the office-bearers of the Association as are eligible under the rules of the Corporation and it shall consist of such number of members with such qualifications exercising such powers and for such periods as the said rules shall direct.

5. All debts and liabilities of the Association existing at the time of coming into operation of this Act shall be paid by the Corporation hereby constituted, and all debts due to and subscriptions payable to the Association shall be paid to the Corporation for the purposes of this Act.

6. The Corporation shall be able and capable in law to receive and to hold property both movable and immovable, hold property

Cap.512] **CEYLON ASSOCIATION FOR THE MENTALLY RETARDED**

which may be vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise; and all such property shall be held by the Corporation for the purposes of this Act and subject to the rules for the time being of the Corporation with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

determination of the subscription payable by members and the collection of such subscriptions, and otherwise generally for the management of the affairs and the accomplishment of the objects of the Association and such rules may at such a meeting be amended, added to or repealed.

Seal of Corporation.

7. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of the General Secretary and a member of the Executive Committee of the Association duly authorised for the purpose under the rules thereof, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

9. The rules set out in the Schedule* to this Act shall for all purposes be the rules of the Corporation: Rules in the Schedule to be the rules of the Corporation.

Provided, however, that nothing in this section contained shall be held or be construed to prevent the Corporation at all times hereafter from making fresh rules or from altering, amending or adding to the existing rules or to rules which are hereafter made by the Corporation.

Power to make rules.

8. It shall be lawful for the Corporation from time to time at any general meeting of the members and by a majority of the members present and voting, to make, subject to the provisions of sections 9 and 10, rules for the admission, withdrawal or expulsion of members, for the conduct of the duties of the Executive Committee and of the various officers, agents and servants of the Association, for the procedure to be observed at meetings, for the transaction of the business of the Association, for the administration and management of the property of the Association, for the

10. No rule in the Schedule* to this Act nor any rule which may hereafter be passed at a meeting shall be altered, added to, amended or rescinded, except by a vote of the majority of the members present and voting at a Special General Meeting of the members of the Association. Amendment, &c.of rules

11. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act, and those claiming by, from, or under them. Savings of rights of the Republic and

• Schedule omitted.—Private enactment.

CHAPTER 31

CHILDREN AND YOUNG PERSONS

AN ORDINANCE TO MAKE PROVISION FOR THE ESTABLISHMENT OF JUVENILE COURTS, FOR THE SUPERVISION OF JUVENILE OFFENDERS, FOR THE PROTECTION OF CHILDREN AND YOUNG PERSONS, AND FOR OTHER CONNECTED PURPOSES.

Ordinances
Nos. 48 of 1939,
13 of 1944,
42 of 1944,
12 of 1945,
Acts
Nos. 47 of 1956,
2 of 1978.

[Parts I, 11, and III—28th April, 1952.]

[Part V (except section 76) not in operation on 31st December, 1980.]

[Part VI and section 76—31st December, 1952.]

[Part IV is repealed by Act No. 47 of 1956.]

Short title and
date of
operation-

1. This Ordinance may be cited as the Children and Young Persons Ordinance, and Part V, except section 76 of this Ordinance, shall come into operation on such date as the President may appoint by Proclamation published in the Gazette.

PART I

ESTABLISHMENT OF JUVENILE COURTS, JURISDICTION OF AND PROCEDURE IN JUVENILE COURTS, &c.

JUVENILE COURTS

2. A court of summary jurisdiction sitting for the purpose of hearing any charge against a child or young person or for the purpose of exercising any other jurisdiction conferred on a Juvenile Court by or under this Ordinance or any other written law shall be known as a Juvenile Court.

3. (1) There may be appointed, for each Magistrate's Court, a person or persons, by name or by office, to be or to act as Magistrate or Magistrates of that court when that court is sitting as a Juvenile Court.

(2) There may be appointed, for each Municipal Court, a person or persons, by name or by office, to be or to act as Magistrate or Magistrates of that court when that court is sitting as a Juvenile Court.

(3) Where the number of persons to be appointed for any court under subsection (1) or subsection (2) is less than three, the

person or each of the persons to be so appointed must be an attorney-at-law or a person who holds or has held judicial office ; and in every other case, one at least of the persons to be so appointed for any court must be an attorney-at-law or a person who holds or has held judicial office.

(4) A woman shall not be disqualified, by reason only of her sex, from being appointed as a Magistrate under subsection (1) or subsection (2).

(5) Every person appointed under subsection (1) or subsection (2) shall be known as a Children's Magistrate of the judicial division or municipal town for which he is appointed, and is hereinafter referred to as " a Children's Magistrate ".

(6) Where the number of Children's Magistrates appointed for any Magistrate's Court or Municipal Court is less than three, the jurisdiction conferred by this Ordinance or by any other written law on such court, sitting as a Juvenile Court, shall be exercised by the Magistrate or either of the Magistrates so appointed.

(7) Where the number of Children's Magistrates appointed for any Magistrate's Court or Municipal Court is three or more, the jurisdiction conferred by this Ordinance or by any other written law on such court, sitting as a Juvenile Court, may be exercised either—

(a) by any one of such Magistrates sitting alone, if he is an attorney-at-law or holds or has held judicial office: or

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Magistrates.

(b) by any three of such Magistrates sitting together including in every such case one who is an attorney-at-law or holds or has held judicial office.

(8) In any case where any three Children's Magistrates sit together as provided in subsection (7), such Magistrates shall elect one of their number to be the chairman of the court for the sitting, and—

- (a) the proceedings of the court, and the evidence given before the court, shall be recorded by the chairman;
- (b) the verdict of the court, and every order made by the court, shall be signed by the chairman and by at least one of the other Magistrates;
- (c) the decision of the majority of such Magistrates shall, in the event of any difference of opinion between such Magistrates, be the decision of the court.

(9) In this section "judicial office " does not include the office of Judge of a Primary Court or the office of Children's Magistrate.

Jurisdiction of Juvenile Courts.

4. (1) Notwithstanding anything in any written law to the contrary but subject as hereinafter provided, a Magistrate's Court sitting as a Juvenile Court shall have jurisdiction to hear and determine any case in which a child or young person is charged with any offence other than a scheduled offence and any question of law or fact arising in such case.

(2) A Municipal Court sitting as a Juvenile Court shall have no jurisdiction to hear and determine any case in which a child or young person is charged with having committed an offence other than an offence which, in the case of an adult, is triable by such Municipal Court under the provisions of the Municipal Councils Ordinance or of any other written law.

(3) A Primary Court sitting as a Juvenile Court shall have no jurisdiction to hear and determine any case in which a child or young person is charged with having

committed any offence other than an offence, which, in the case of an adult, is triable by such court.

5. (1) Subject as hereinafter provided, no charge against a child or young person and no application whereof the hearing is by this Ordinance or by any other written law assigned to Juvenile Courts, shall be heard by a court of summary jurisdiction which is not a Juvenile Court:

Assignment of certain mailers to Juvenile Courts.

Provided that—

- (a) no case in which a child or young person is charged with having committed a scheduled offence shall be heard and determined by a Juvenile Court; and
- (b) a charge made Jointly against a child or young person and a person who has attained the age of sixteen years shall be heard by a court of summary jurisdiction other than a Juvenile Court; and
- (c) where in any case a child or young person is charged with an offence, the charge may be heard by a court of summary jurisdiction which is not a Juvenile Court, if a person who has attained the age of sixteen years is in the same case charged with the abetment of that offence; and
- (d) where, in the course of the proceedings before any court of summary jurisdiction other than a Juvenile Court, it appears that the person to whom the proceedings relate is a child or young person, nothing in this section shall be construed as preventing the court, if it thinks fit so to do, from proceeding with the hearing and determination of those proceedings.

6. No direction, whether contained in this Ordinance or in any other written law, that a charge shall be brought before a Juvenile Court, shall be construed as restricting the powers of any court of summary jurisdiction which is not a Juvenile Court to entertain an application for bail or for a remand and to hear such evidence as may be necessary for that purpose.

Order for bail by courts not sitting as Juvenile Courts.

Sittings of a Juvenile Court,

7. (1) A Juvenile Court shall sit as often as may be necessary for the purpose of exercising any jurisdiction conferred on such court by or under this Ordinance or any other written law.

(2) A Juvenile Court shall sit in a different building or room from that in which sittings of courts other than Juvenile Courts are held :

Provided, however, that this subsection shall not apply in the case of a Primary Court sitting as a Juvenile Court, if a different building or room is not available for the sittings of such Juvenile Court.

(3) No person shall be present at any sitting of a Juvenile Court except—

- (a) members and officers of the court ;
- (b) parties to the case before the court, their attorneys-at-law and witnesses and other persons directly concerned in that case; and
- (c) such other persons as the court may specially authorize to be present.

Power of Juvenile Court to proceed with hearing where accused person is not a child or young person.

8. (1) A Juvenile Court sitting for the purpose of hearing a charge against, or an application relating to, a person who is believed to be a child or young person may, if it thinks fit so to do, proceed with the hearing and determination of the charge or application, notwithstanding that it is discovered that the person in question is not a child or young person.

(2) Where the court before which any person is bound by his recognizance under Chapter XXV of the Code of Criminal Procedure Act or any rules made thereunder or under the Primary Courts' Procedure Act, to appear is a Juvenile Court, the attainment by him of the age of sixteen years shall not deprive that court of jurisdiction to enforce his attendance and deal with him in respect of any failure to observe the conditions of his recognizance, or of jurisdiction to vary or discharge the recognizance.

Procedure in Juvenile Courts.

9. (1) Where a child or young person is brought before a Juvenile Court for any offence which that court has jurisdiction to

hear and determine, it shall be the duty of the court as soon as possible to explain to him in simple language the substance of the alleged offence.

(2) Where a child is brought before a Juvenile Court for any offence which that court has jurisdiction to hear and determine, the case shall be tried and determined in that court.

(3) Where a young person is brought before a Municipal Court or a Primary Court sitting as a Juvenile Court, for any offence which that Juvenile Court has jurisdiction to hear and determine, the case shall be tried and determined by such Juvenile Court.

(4) Where a young person is brought before a Magistrate's Court sitting as a Juvenile Court for any offence which that Juvenile Court has jurisdiction to hear and determine, the following provisions shall apply :—

- (a) Where the offence alleged against the young person is an offence other than an indictable offence, the case shall be tried and determined by the Juvenile Court;
- (b) Where the offence alleged against the young person is an indictable offence—
 - (i) the court shall, if it is of opinion that it is expedient that the case should be summarily disposed of, put to the young person the following or a similar question, telling him that he may consult his parent or guardian or a friend before replying:—

" Do you wish to be tried by this court or by a higher court ? ",

and the court shall explain to the young person and to his parent or guardian, if present, the meaning of being so tried ; and if the young person on being so questioned states that

he wishes to be tried by the Juvenile Court, the case shall be tried and determined by that court:

Provided that if the court becomes satisfied at any time during the hearing that the case should be tried by a higher court, the Juvenile Court shall discontinue the proceedings against that young person and direct that the charge should be preferred in a Magistrate's Court of competent jurisdiction;

- (ii) if the court is of opinion that it is not expedient that the case should be summarily disposed of, or if the young person in answer to the question put to him under paragraph (i) states that he wishes to be tried by a higher court, the Juvenile Court shall discontinue the proceedings against that young person and direct that the charge should be preferred in a Magistrate's Court of competent jurisdiction.

(5) In every case which is tried by a Juvenile Court in accordance with the provisions of this section the court shall adopt the following procedure ;—

- (a) The court shall ask the child or young person whether he admits that he committed the offence ;
- (b) If the child or young person does not admit that he committed the offence, the court shall then hear the evidence of the witnesses in support of the charge. At the close of the evidence-in-chief of each such witness, the court shall ask the child or young person, or if it thinks fit, the parent or guardian of the child or young person, whether he wishes to put any question to the witnesses; and the child or young person, or the parent or guardian may, if he so desires, put any

questions accordingly. The child or young person may, instead of asking any questions, make a statement, if he so desires;

- (c) It shall be the duty of the court to put to every witness who gives evidence in support of the charge such questions as appear to the court to be necessary ;
- (d) The court may put to the child or young person such questions as may be necessary to explain anything in any statement made by the child or young person;
- (e) If it appears to the court that a prima facie case is made out, the evidence of any witness for the defence shall be taken and the child or young person shall be allowed to give evidence or to make any statement;
- (f) If the child or young person admits that he committed the offence or if the court is satisfied on the evidence adduced that the child or young person committed the offence, he shall be asked if he desires to say anything in extenuation of the offence or in mitigation of punishment or otherwise.

10. (1) Where a Juvenile Court is satisfied that a child or young person is guilty of an offence in respect of which that court has jurisdiction under this Ordinance, that court shall, for the purpose of deciding how the child or young person should be dealt with, take into consideration any information which may be available regarding the antecedents and circumstances of the child or young person, including any information supplied by a probation officer under section 17, and may summon and examine any probation officer or other person and may also put to the child or young person any question arising out of such information or examination.

Procedure on finding of guilty in Juvenile courts

(2) For the purpose of enabling any information regarding the antecedents and circumstances of the child or young person to be obtained, the court may, if it is a

Magistrate's Court sitting as a Juvenile Court, remand the child or young person for a period not exceeding twenty-one days to a remand home or to the custody of a fit person; and when any child or young person has been so remanded the court may—

- (a) in his absence extend the period for which he is remanded, so, however, that he appears before the court at least once in every twenty-one days; and
- (6) when the required information has been obtained, deal with him finally.

Article of the Constitution shall apply accordingly to any rules of court framed under subsection (I) for the purposes of this Ordinance,

(3) The Minister in charge of the subject of Justice may frame rules for regulating the procedure and practice in Primary Courts sitting as Juvenile Courts; and the provisions of the Primary Courts' Procedure Act relating to the procedure and practice in criminal cases before such courts shall, in so far as those provisions are not inconsistent with the provisions of this Ordinance or of any rules made under this subsection, apply in cases heard by a Primary Court sitting as a Juvenile Court.

Restriction on reports of proceedings in Juvenile Courts.

11. No report of any proceedings before a Juvenile Court shall be published in any newspaper, magazine, or other journal:

Provided that nothing in this section shall affect the bona fide publication of any report of any such proceedings in any scientific journal or other publication devoted exclusively to the protection or welfare of children or young persons;

Provided further that no report in any such journal or publication shall reveal the name, address, or school, or any other particulars calculated to lead to; the identification of, any child or young person concerned in such proceedings.

Rules of court.

12. (1) The Chief Justice and any three Judges of the Supreme Court nominated by him may frame rules of court for regulating the procedure and practice in Magistrates' Courts and Municipal Courts sitting as Juvenile Courts; and the provisions of the Code of Criminal Procedure Act shall apply to the procedure and practice in such Juvenile Courts, in so far as those provisions are not inconsistent with the provisions of this Ordinance or of any rules framed under this subsection.

(2) The matters for which rules may be framed under subsection (1) shall be deemed to be added to the list of matters for which rules may be framed, constituted, and established under Article 136 of the Constitution; and the provisions of that

PART II

SPECIAL PROVISIONS APPLICABLE To ALL COURTS IN RELATION To CHILDREN AND YOUNG PERSONS

PRELIMINARY PROCEEDINGS

13. Arrangements shall be made for preventing a child or young person while detained in a police station or while being conveyed to or from any criminal court, or while waiting before or after attendance in any criminal court, from associating with an adult (not being a relative) who is charged with any offence other than an offence with which the child or young person is jointly charged, and for ensuring that a girl (being a child or young person) shall while so detained, being conveyed or waiting, be under the care of a woman.

Separation of children and young offenders from adults in police stations, courts, &c.

14. (1) Where a person apparently under the age of sixteen years is arrested, with or without warrant, and cannot be brought forthwith before the competent court of summary jurisdiction, the person making the arrest shall take such person to the nearest police station and the officer in charge of that station shall inquire into the case and shall release such person if a recognizance is entered into by him or his parent or guardian (with or without sureties) for such an amount as will, in the opinion of the officer, secure his attendance upon the hearing of the charge:

Bail or detention of children and young persons arrested.

Provided, however, that where the competent court of summary jurisdiction is a Magistrate's Court, the officer in charge of the station may detain and deal with him in the manner provided in subsection (2) if—

- (a) the charge is in respect of a scheduled offence;
- (b) it is necessary in the interest of such person to remove him from association with any reputed criminal or prostitute ; or
- (c) the officer has reason to believe that the release of such person would defeat the ends of justice.

(2) Where a person apparently under the age of sixteen years having been arrested is not so released as provided in subsection (1), the officer in charge of the station shall cause him to be detained in a remand home or in the residence of any person nominated by the Minister under subsection (3) until he can be brought before the competent court of summary jurisdiction, unless the officer certifies—

- (a) that it is impracticable to do so; or
- (b) that he is of so unruly a character that he cannot safely be so detained; or
- (c) that by reason of his state of health or of his mental or bodily condition it is inadvisable so to detain him,

and the certificate shall be produced to the court before which he is brought.

(3) The Minister may by notification in the Gazette nominate for any area any number of responsible persons in whose residences any person apparently under the age of sixteen years may be detained for the purposes of subsection (2).

Remand or committal to custody in remand homes or in charge of fit and proper persons.

15. (1) Any court on remanding or committing for trial a child or young person who is not released on bail, shall, instead of committing him to prison, commit him to custody in a remand home, or in the residence of a fit and proper person named in the commitment, to be there detained for the period for which he is remanded or until he is thence delivered in due course of law:

Provided that in the case of a young person it shall not be obligatory on the court so to commit him if the court certifies that he is of so unruly a character that he cannot safely be so committed or that he is of so depraved a character that he is not a fit person to be so detained.

(2) A commitment under this section may be varied, or, in the case of a young person who proves to be of so unruly a character that he cannot safely be detained in such custody, or to be of so depraved a character that he is not a fit person to be so detained, revoked, by the court which made the order, or if application cannot conveniently be made to that court, by the nearest Magistrate's Court having jurisdiction in the place where the court which made the order sat, and if it is revoked, the young person may be committed to prison.

16. (1) Where a child or young person is charged with any offence or is for any other- reason brought before a court, his parent or guardian may in any case, and shall if he can be found and resides within a reasonable distance, be required to attend at the court before which the case is heard or determined during all the stages of the proceedings unless the court is satisfied that it would be unreasonable to require his attendance.

Attendance at court of parent of child or young person charged with an offence, &c.

(2) Where a child or young person is arrested or taken to a place of safety the person by whom he is arrested or the officer in charge of the police station to which he is brought or the person by whom he is taken to the place of safety, as the case may be, shall cause the parent or guardian of the child or young person if he can be found, to be warned to attend at the court before which the child or young person will appear.

(3) A court may issue a summons requiring the attendance of a parent or guardian at such time and place as may be specified therein; and any summons so issued shall—

- (a) when issued by a Magistrate's Court or Municipal Court sitting as a Juvenile Court, be deemed to be a summons which the court is empowered to issue under the Code of Criminal Procedure Act and the provisions of Chapter V of that Act shall apply accordingly;

(b) when issued by a Primary Court sitting as a Juvenile Court, be deemed to be a summons which the court is empowered to issue under the Primary Courts' Procedure Act and the provisions of that 'Act relating to such a summons, shall apply accordingly.

(4) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual possession and control of the child or young person :

Provided that if that person is not the father, the attendance of the father may also be required.

(5) The attendance of the parent of a child or young person shall not be required under this section in any case where the child or young person was, before the institution of the proceedings, removed from the custody or charge of his parent by an order of a court.

17. (1) Where a child or young person is to be brought before a Magistrate's Court or before a Juvenile Court in respect of an offence alleged to have been committed by him, or as being in need of care or protection, the officer in charge of the police station to which the child or young person is taken shall forthwith notify the day and hour when and the nature of the charge or other grounds on which, the child or young person is to be brought before the court, to the probation officer, or one of the probation officers, for the area within the jurisdiction of such court.

(2) A probation officer who has received a notification under the last foregoing subsection shall make such investigations and render available to the court such information as to the home surroundings, school record, health, and character of the child or young person as appear to him to be likely to assist the court.

GENERAL PROVISIONS AS TO PROCEEDINGS IN COURT

18. No child (other than an infant in arms) shall be permitted to be present in court during the trial of any other person charged with an offence, or during any proceedings preliminary thereto, except

during such time as his presence is required as a witness or otherwise for the purpose of justice ; and any child present in court when under this section he is not to be permitted to be so, shall be ordered to be removed.

19. (1) Where, in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, a person who, in the opinion of the court, is a child or young person is called as a witness, the court may direct that all or any persons, not being members or officers of the court or parties to the case, their attorneys-at-law, or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of that witness.

(2) The powers conferred on a court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings in camera.

20. (1) In relation to any proceedings in any court, other than a Juvenile Court, which arise out of any offence against, or any conduct contrary to, decency or morality—

(a) no report of the proceedings in any newspaper, magazine, or other journal shall reveal the name, address, or school, or include any particulars calculated to lead to the identification, of any child or young person concerned in the proceedings, either as being the person against or in respect of whom the proceedings are taken, or as being a witness therein ; and

(b) no picture shall be published in any newspaper, magazine or other journal, as being or including a picture of any child or young person so concerned in the proceedings as aforesaid.

(2) Any person who publishes any matter in contravention of subsection (1) shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding five hundred rupees.

Power to clear court while child or young person is giving evidence in certain cases-

Prohibition of publication of certain matter in newspapers.

Notice to probation officers of charges against and applications relating to children and young persons.

Prohibition against children being present in court during the trial of other persons.

PRINCIPLES TO BE OBSERVED BY ALL COURTS IN DEALING WITH CHILDREN AND YOUNG PERSONS

General considerations.

21. Every court in dealing with a child or young person who is brought before it, either as being in need of care or protection or as an offender or otherwise, shall have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training.

(2) Where a child or young person is convicted on indictment of any scheduled offence other than murder and the court is of opinion that none of the other methods in which the case may legally be dealt with is suitable, the court may sentence the offender to be detained for such period as may be specified in the sentence ; and where such a sentence has been passed the child or young person shall, during that period, notwithstanding anything in the other provisions of this Ordinance, be liable to be detained in such place and on such conditions as the Minister may direct.

YOUNG OFFENDERS

Removal of disqualifications attaching to any offence.

22. No conviction or finding of guilty of a child or young person shall be regarded as a conviction of an offence for the purposes of any disqualification attaching to such conviction.

Where such a sentence is passed, the court shall remand the child or young person to a remand home pending his detention pursuant to the directions of the Minister.

Restrictions on punishment of children and young persons.

23. (1) A child shall not be ordered to be imprisoned for any offence, or be committed to prison in default of payment of a fine.

(3) A person detained pursuant to the directions of the President or Minister under this section shall, while so detained, be deemed to be in legal custody.

(2) A young person shall not be ordered to be imprisoned for any offence, or be committed to prison in default of payment of a fine, unless the court certifies that he is of so unruly a character that he cannot be detained in a remand home or certified school or that he is of so depraved a character that he is not a fit person to be so detained.

(4) Any person so detained as aforesaid may, at any time, be discharged by the Minister on licence. Such a licence may be in such form and may contain such conditions as the Minister may direct, and may at any time be revoked or varied by the Minister.

(3) The provisions of subsection (2) shall be in addition to and not in substitution of any other provisions of any written law limiting or restricting the power of a court to order a person to be imprisoned in default of a fine, and such other provisions shall apply in the case of a young person in so far as they are not inconsistent with the provisions of subsection (2).

Where a licence has been revoked the person to whom the licence related shall return to such place as the Minister may direct, and, if he fails to do so, may be apprehended without warrant and taken to that place.

Punishment of certain grave crimes.

24. (1) Where in lieu of sentence of death, a sentence of detention during the President's pleasure has, under section 53 of the Penal Code, been passed by any court in respect of a person who, in the opinion of the court is under the age of eighteen years, the court may order that person to be detained in a remand home until the pleasure of the President is made known.

25. (1) Where a child or young person is found guilty by any court of an offence punishable in the case of an adult with imprisonment, whether with or without a fine, the court may order that he be committed to custody in a remand home for such term as may be specified in the order, not exceeding the term for which he might, but for this Ordinance, be ordered to be imprisoned, nor in any case exceeding one month.

Substitution of custody in remand home for imprisonment.

(2) In any case in which an order is made under subsection (1), the court may in addition make an order under section 28 (1) or section 29 (1).

Power to send a child or young offender to an approved or certified school-

26. (1) Where a child who has attained the age of twelve years or a young person is found guilty by any court of an offence punishable in the case of an adult with imprisonment, whether with or without a fine, the court may order him to be sent to an approved or certified school.

(2) In any case in which an order is made under subsection (1), the court may in addition make an order under section 28 (1) or section 29 (1).

Power to commit child or young offender to care of probation officer or parent, &c.

27. (1) Where a child or young person is found guilty by any court of any offence the court may—

- (a) order him to be delivered to his parent or guardian or nearest adult relative, on such parent, guardian, or relative executing a bond, with or without sureties, that he will be responsible for the good behaviour of the child or young person for any period not exceeding one year; or
- (b) order him to be placed for a period not exceeding three years in charge of some fit person, whether a relative or not, who is willing to undertake the care of him; or
- (c) make any order which the court is competent to make under section 306 of the Code of Criminal Procedure Act discharging the child or young person conditionally on his entering into a recognizance; or
- (d) except where the court is a Primary Court, make a probation order in respect of the child or young person, subject to and in accordance with the provisions of any other written law relating to the release of offenders on probation.

(2) In any case in which an order is made under subsection (1), the court may in addition make an order under section 28 (1) or section 29 (1).

(3) Where a court makes an order under paragraph (b) of subsection (1), it may in such order give such directions with regard to the supervision of the child or young person as it may think fit.

(4) Where a court makes an order under paragraph (c) of subsection (1), the provisions of Chapter XXV of the Code of Criminal Procedure Act shall be applicable in the case of the child or young person in respect of whom the order is made.

28. (1) Where a child or young person is charged before any court with any offence punishable in the case of an adult with a fine the court, if it is of opinion that the case would be best met by the imposition of a fine, whether with or without any other punishment, may in any case, and shall if the offender is a child, order that the fine awarded be paid by the parent or guardian of the child or young person instead of by the child or young person, unless the court is satisfied that the parent or guardian cannot be found or that he has not conducted to the commission of the offence by neglecting to exercise due care of the child or young person.

(2) In any case in which an order is made under subsection (1), the court may in addition make an order under section 29(1).

(3) An order under subsection (1) may be made against a parent or guardian who, having been required to attend, has failed to do so, but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(4) Any sum ordered under subsection (1) to be paid by a parent or guardian may be recovered from him as if it were a fine and in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child or young person is charged.

(5) A parent or guardian may appeal to the Court of Appeal against an order under subsection (1) and the provisions of Chapter XXVIII of the Code of Criminal Procedure Act shall apply to an appeal so preferred.

29. (1) Where a child or young person who is a male is found guilty by any court of any offence, the court may, if it is for any reason of opinion that the case is one in which corporal punishment should be inflicted, make order that the child or young

Power to order parent to pay fine instead of child or young person.

Infliction of corporal punishment on a child or young person

person shall receive not more than six strokes with a light cane or rattan,- such strokes to be inflicted in the presence of the court and, if the parent of the child or young person desires to be present, in his presence:

Provided that no order under this section shall be made in any case unless the court also makes an order under not more than one of the following sections :—

25(1), 26(1), 27 (I) and 28(1).

(2) Every court which makes an order under subsection (1), shall record in writing its reasons for making such order.

Discharge of child or young person after admonition.

30. Where a child or young person is found guilty of any offence by any court, the court, in any case in which it is of opinion that it is not necessary or expedient to deal with the child or young person under the provisions of sections 25 to 29, may after due admonition discharge the child or young person.

Power of other courts to remit a child or young offender to Juvenile Courts.

31. (1) Any court by or before which a child or young person is found guilty of an offence other than murder may, if it thinks fit, remit the case to the Magistrate's Court sitting as a Juvenile Court of the district within which the offence was committed; and where any such case is so remitted, the offender shall be brought before such Juvenile Court accordingly, and that court may deal with him in any way in which it might have dealt with him if he had been tried and found guilty by that court.

(2) No appeal shall lie against an order of remission made under subsection (1), but nothing in this subsection shall affect any right of appeal against the verdict or finding on which such an order is founded, and a person aggrieved by the order of the Juvenile Court to which the case was so remitted may appeal to the Court of Appeal as if he had been tried and found guilty by the Juvenile Court.

(3) A court by which an order remitting a case to a Juvenile Court is made under subsection (1) may give such directions as

appear to be necessary with respect to the custody of the offender or for his release on bail until he can be brought before the Juvenile Court, and shall cause to be transmitted to the Juvenile Court a certificate setting out the nature of the offence and stating that the offender has been found guilty thereof and that the case has been remitted for the purpose of being dealt with under subsection (1).

32. The Minister may by order direct that—

Power of Minister to send certain children and young offenders to approved or certified schools.

- (a) a child or young person with respect to whom he is authorized to give directions under section 24 (2); or
- (b) a young person who has been ordered to be imprisoned and has been pardoned by the President on condition of his agreeing to undergo training in a school,

shall be transferred or sent to and detained in an approved or certified school specified in the order; and any such order shall be an authority for the detention of the person to whom it relates until such date as may be specified in the order :

Provided that the date to be so specified shall be not later than that on which he will in the opinion of the Minister attain the age of nineteen years nor later—

- (a) in the case of a person who was sentenced to detention under section 24 (2), than the date on which his detention would have expired;
- (b) in the case of a young person who has been sentenced to imprisonment and pardoned as aforesaid, than three years from the date as from which his sentence began to run.

33. The words " conviction" and " sentence " shall cease to be used in relation to children and young persons dealt with summarily and any reference in any written law to a person convicted, a conviction or a sentence shall, in the case of a child or young person, be construed as including a reference to a person found guilty of an offence, a finding of guilt or an order made upon such a finding, as the case may be.

Miscellaneous provisions as to summary proceedings against children and young persons.

CHILDREN AND YOUNG PERSONS IN NEED OF CARE OR PROTECTION

Definition of " in need of care or protection "

34. (1) For the purposes of this Ordinance a child or young person in need of care or protection means a person who is—

- (a) a child or young person who, having no parent or guardian or a parent or guardian unfit to exercise care and guardianship or not exercising proper care and guardianship, is either falling into bad associations, or exposed to moral danger, or beyond control; or
- (b) a child or young person who—
 - (i) being a person in respect of whom any of the offences mentioned in the First Schedule has been committed; or
 - (ii) being a member of the same household as a child or young person in respect of whom such an offence has been committed; or
 - (iii) being a member of the same household as a person who has been convicted of such an offence in respect of a child or young person; or
 - (iv) being a female member of a household whereof a member has committed an offence under section 17 of the Marriage Registration Ordinance in respect of another female member of that household,

requires care or protection; or

- (c) a child in respect of whom an offence has been committed under section 77 (which relates to the punishment of vagrants preventing children from receiving education).

(2) For the purposes of this section, the fact that a child or young person is found destitute, or is found wandering without any settled place of abode and without visible

means of subsistence, or is found begging or receiving alms (whether or not there is any pretence of singing, playing, performing or offering anything for sale), or is found loitering for the purpose of so begging or receiving alms, shall, without prejudice to the generality of the provisions of paragraph (a) of subsection (1), be evidence that he is exposed to moral danger.

35. (1) If a Magistrate's Court sitting as a Juvenile Court is satisfied that any person brought before the court under this section by any officer of a local authority, or by any police officer or authorized person, is a child or young person in need of care or protection, the court may either—

Powers of Juvenile Courts in respect of children and young persons in need of care or protection.

- (a) if he has attained the age of twelve years, order him to be sent to an approved or certified school; or
- (b) commit him to the care of any fit person, whether a relative or not, who is willing to undertake the care of him; or
- (c) order his parent or guardian to enter into a recognizance to exercise proper care and guardianship; or
- (d) " without making any other order, or in addition to making an order under either of the last two foregoing paragraphs, make an order placing him for a specified period, not exceeding three years, under the supervision of a probation officer, or of some other person appointed for the purpose by the court.

(2) Any officer of a local authority, or any police officer or authorized person having reasonable grounds for believing that a child or young person is in need of care or protection may bring him before a Magistrate's Court sitting as a Juvenile Court-

(3) For the purposes of this section, the expression " authorized person " means any officer of a society which is authorized by general or special order of the President to institute proceedings under this section, and any person who is himself so authorized.

Powers of other courts with respect to last foregoing section.

36. (1) Any court by or before which a person is convicted of having committed in respect of a child or young person any of the offences mentioned in the First Schedule or any offence under section 77, may—

- (a) direct that the child or young person be brought before a Magistrate's Court sitting as a Juvenile Court with a view to that court making such order under the last foregoing section as may be proper; or
- (b) if satisfied that the material before the court is sufficient to enable it properly to exercise jurisdiction, make any order which the Juvenile Court might make.

(2) Where any court has, under this section, directed that a child or young person be brought before a Magistrate's Court sitting as a Juvenile Court, it shall be the duty of the officer or person specified in that behalf in the order to bring the child or young person before such a court under section 35.

Removal or remand of child or young person to place of safety.

37. (1) A police officer of a rank not below that of Sub-Inspector or any person authorized by any court, may take to a place of safety any child or young person in respect of whom any of the offences mentioned in the First Schedule to this Ordinance has been or is believed to have been committed, or who is about to be brought before a Juvenile Court in accordance with section 35 or section 36, and a child or young person so taken to a place of safety, and any child or young person who has taken refuge in a place of safety, may be detained there until he can be brought before a Juvenile Court.

(2) If a Juvenile Court before which any child or young person is brought is not in a position to decide whether any and, if so, what, order ought to be made under section 35 or section 36, it may make such interim order as it thinks fit for his detention or continued detention in a place of safety or for his committal to the care of a fit person, whether a relative or not, who is willing to undertake the care of him,

An interim order under this subsection shall not remain in force for more than twenty-eight days; but if at the expiration of that period the court deems it expedient to do so, it may make a further interim order.

SUPPLEMENTARY PROVISIONS AS TO ORDERS OF COURT

38. (I) Where a court makes an order under any of the provisions of this Ordinance placing a child or young person under the supervision of a probation officer or of some other fit person, that officer or person shall, while the order remains in force—

Supervision by probation officers or other persons.

- (a) visit or receive reports from the child or young person under supervision at such reasonable intervals as may be specified in the order, or subject thereto, as the officer or person shall think fit;
- (b) see that the conditions of any recognizance entered into by or in respect of the child or young person are observed;
- (c) make report to the court as to the behaviour of the child or young person;
- (d) advise, assist, and befriend the child or young person and, when necessary, endeavour to find him suitable employment; and
- (e) if it appears necessary in the interests of the child or young person so to do, at any time while the order is in force and he is under the age of sixteen years, bring him before the Magistrate's Court sitting as a Juvenile Court, of the division within which he is resident, and that court may, if it thinks that it is desirable in his interests so to do, order him to be sent to an approved or certified school or commit him to the care of a fit person, whether a relative or not, who is willing to undertake the care of him.

(2) Where the probation officer or other person named in the order as aforesaid placing a child or young person under supervision has died or is unable for any reason to carry out his duties, or where it is made to appear that it is for any reason desirable that another person should be appointed in the place of that officer or person, a Juvenile Court may appoint another probation officer or person to act in his place.

(6) the applicant has named an approved school for persons of the religious persuasion in question and shown to the satisfaction of the court or the Minister that the manager thereof has accommodation available.

Regard to be had to religious persuasion of person sent to approved or certified school.

39. (1) A court before making an approved school order with respect to any child or young person shall endeavour to ascertain his religious persuasion.

40. (1) An approved or certified school order may be made to take effect immediately, or its operation may be postponed to a later date specified in the order or to be subsequently specified by endorsement thereon in accordance with the provisions of this Ordinance:

(2) A court or the President or the Minister, in determining the approved school to which a person is to be sent shall, where practicable, select a school for persons of the religious persuasion to which he belongs.

Provided that the operation of any such order shall not be postponed except pending the completion of arrangements for the reception of the child or young person into a suitable school or on account of his ill-health.

(3) Where an order has been made sending a person to an approved school which is not a school for persons of the religious persuasion to which he belongs, his parent, guardian, or nearest adult relative may apply—

(2) If an approved or certified school order is not made to take effect immediately, or if, at the time when such an order takes effect, the child or young person cannot be sent to the school, the court which made the order or any other court which would have jurisdiction to make an endorsement thereon under the next following section may make an order committing him either to custody in any place to which he might be committed on remand or to the custody of a fit person to whose care he might be committed under this Ordinance and, subject as hereinafter provided, that order shall have effect until he is sent to an approved or certified school in pursuance of the order :

- (a) if the order was made by a court of summary jurisdiction, to that court sitting as a Juvenile Court ;
- (b) in any other case, to the Minister, to remove or send the person to a certified school, or to an approved school for persons of his religious persuasion,

and the court or the Minister shall, on proof of his religious persuasion and notwithstanding any declaration with respect thereto embodied in the approved school order, if any, relating to him, comply with the request of the applicant:

Provided that an order made under this subsection shall not remain in force for more than twenty-eight days, but if at the expiration of that period any such court as aforesaid considers it expedient so to do the court may make a further order under this subsection.

Provided that nothing in this subsection shall empower a court, or impose an obligation upon the Minister, to comply with any request as aforesaid unless—

Any order made under this subsection may be made in the absence of the child or young person concerned.

- (a) accommodation is available at a certified school; or

41. (1) Every approved or certified school order shall contain a declaration as to the age and religious persuasion of the child or young person with respect to whom the order is made, and shall specify the

Contents of approved or certified school orders.

name and address, if ascertainable, of the parents, guardian or nearest adult relative of the child or young person.

(2) Every approved or certified school order which is made to take effect immediately shall—

- (a) specify the approved or certified school to which the child or young person with respect to whom the order is made is first to be sent, being that one of the available schools (whether situated within the jurisdiction of the court making the order or not) which the court, after considering any representations made to it, considers to be most suitable to the case ; and
- (b) state the authority or person who is to be responsible for conveying to the school the child or young person with respect to whom the order is made.

(3) Where an approved or certified school order is not made to take effect immediately, then if either the date to which its operation is postponed or the school to which the child or the young person is to be sent or the authority or person who is to be responsible for conveying him, is not specified in the order, the date, school, authority, or person, shall be subsequently specified by endorsement thereon.

(4) If for any reason a child or young person with respect to whom an approved or certified school order has been made cannot be received into the approved or certified school specified in or endorsed upon the order, another school may be specified by an endorsement or further endorsement thereon, as the case may be.

(5) An endorsement under the foregoing provisions of this section may be made either—

- (a) by the court which made the approved or certified school order; or
- (b) if the order was made by a court of summary jurisdiction, by that court, sitting as a Juvenile Court; or

(c) if the order was made by any court other than a court of summary jurisdiction—

- (i) by the Magistrate's Court, sitting as a Juvenile Court, of the division in- which the child or young person was committed for trial; or
- (ii) if the child or young person was not committed for trial, by the Magistrate's Court, sitting as a Juvenile Court, of the division within which he was resident;

and any such endorsement may be made in the absence of the child or young person concerned.

(6) An approved or certified school order made by reason of the commission of an offence under section 77 (which relates to the punishment of a vagrant preventing a child from receiving education) shall state that it is so made.

42. (1) Where a court orders a child to be sent to an approved or certified school, the order shall be an authority for his detention in an approved or certified school, as the case may be, until the expiration of a period of three years from the date of the order, and, if at the expiration of that period he is under the age of fourteen years, for his further detention until he attains that age.

Duration of approved or certified school orders.

(2) Where a court orders a young person to be sent to an approved or certified school the order shall be an authority for his detention in such school until the expiration of a period of three years from the date of the order.

43. (1) The court which makes, or makes any endorsement upon, an approved or certified school order shall cause it to be delivered to the person responsible for conveying the child or young person to the school, and the authority or person conveying him to the school shall deliver the order to the headmaster or person for, the time being in charge of the school.

Conveyance of children or young persons to approved or certified schools.

(2) The court by which an approved or certified school order is made shall cause a record in the prescribed form, embodying all such information in the possession of the court with respect to the child or young person as is in the opinion of the court material to be known by the manager of the school, to be prepared and transmitted to the headmaster or person for the time being in charge of the school.

(3) The authority or person specified in any approved or certified school order to be responsible for conveying a child or young person to the school shall be responsible for conveying him there and any expenses incurred in doing so shall be deemed to be an expense incurred in the administration of this Ordinance for the purposes of section 86.

(4) Where a child or young person has been ordered to be sent to an approved or certified school, any person who harbours, conceals, or aids him after the time has come for him to go to the school shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to imprisonment of either description for a term not exceeding two months or to, a fine not exceeding two hundred rupees, or to both such imprisonment and fine.

(5) Where the authority or a person authorized to take a child or young person to an approved or certified school, is, when the time has come for the child or young person to go to the school, unable to find him or unable to obtain possession of him a Magistrate may, if satisfied by information on oath that some person named in the information can produce the child or young person, issue a summons requiring the person so named to attend at the court on such day as may be specified in the summons and produce the child or young person, and if he fails to do so without reasonable excuse he shall in addition to any other liability to which he may be subject under the provisions of this Ordinance, be guilty of an offence and shall be liable to a fine not exceeding fifty rupees.

44. If the manager of an approved or certified school is satisfied that a person whose period of detention therein is, under the foregoing provisions of this Ordinance, about to expire, needs further care or training and cannot be placed in suitable

employment the manager may, with the approval of the Minister, detain him for a further period not exceeding six months, so, however, that he is not detained beyond the date on which he will attain the age of nineteen years:

Provided that the powers conferred by this section shall not extend to a person who, having been a person sentenced to detention under section 24 (2), is detained in an approved or certified school by order of the Minister.

45. (1) A person sent to an approved or certified school shall, after the expiration of the period of his detention, be under the supervision of the manager of the school, if at the expiration of that period he has not attained the age of fourteen years, until he attains the age of sixteen years.

(2) The manager may, and, if the Minister so directs, shall, by notice in writing, recall to the school any person under his supervision who is at the date of recall under the age of sixteen years:

Provided that a person shall not be so recalled unless in the opinion of the manager, or, as the case may be, of the Minister, it is necessary in his interests to recall him.

(3) A person who has been so recalled shall be released as soon as the manager thinks that he can properly be released, and in no case shall he be detained—

- (a) after the expiration of a period of three months or such longer period not exceeding six months as the Minister may, after considering the circumstances of his case, direct; or
- (b) after attaining the age of sixteen years.

(4) The manager shall forthwith notify the Director-General of Education of the recall of any person and shall state the reasons for his recall, and when the manager releases any person so recalled he shall forthwith notify the Director-General of Education that he has done so.

extension
period of
detention in
approved or
certified
school

(5) For the purposes of this Ordinance a person who is out under supervision from an approved or certified school shall be deemed to be under the care of the manager of the school.

Provisions as to making, duration, and effect, of orders of committal to fit persons.

46. (1) Before making an order under this Ordinance committing a child or young person to the care of a fit person, the court shall endeavour to ascertain the religious persuasion of the child or young person, and in selecting the person to whose care the child or young person is to be committed, the court shall, if possible, select a person who is of the same religious persuasion as the child or young person or who gives an undertaking that he will be brought up in accordance with that religious persuasion.

(2) Every order committing a child or young person to the care of a fit person shall contain a declaration—

- (a) as to the age ; and
- (b) as to the religious persuasion,

of the child or young person with respect to whom it is made.

(3) Every order committing a child or young person to the care of a fit person shall, subject to the provisions of this Ordinance, remain in force until he attains the age of sixteen years.

(4) The person to whose care a child or young person is committed by any such order as aforesaid shall, while the order is in force, have the same rights and powers and be subject to the same liabilities in respect of his maintenance as if he were his parent, and the person so committed shall continue in his care notwithstanding any claim by a parent or any other person.

Application of Part II.

47. The provisions of this Part shall have effect in respect of criminal proceedings notwithstanding anything to the contrary in the Penal Code, the Code of Criminal Procedure Act, the Primary Courts' Procedure Act, or any other written law; but such provisions of that Code, of those Acts and of such other law as are not inconsistent with the provisions of this Part shall continue to apply in respect of such proceedings.

PART III

REMAND HOMES, APPROVED SCHOOLS, CERTIFIED SCHOOLS AND PERSONS TO WHOSE CARE CHILDREN AND YOUNG PERSONS MAY BE COMMITTED

REMAND HOMES

48. (1) The Minister may by Order published in the Gazette establish one or more remand homes for the purposes of this Ordinance.

Establishment of remand homes, and appointment of Visitors.

(2) The Minister may appoint one or more persons by name or by office to be Visitors to any remand home established under subsection (1).

49. (1) Where a child or young person is committed to custody in a remand home, the order shall be delivered with the child or young person to the person in charge of the home and shall be sufficient authority for the detention of that child or young person in the home in accordance with the tenor of the order.

Provisions as to custody of children and young persons in a remand home

(2) A child or young person while so detained and while being conveyed to and from the remand home shall be deemed to be in lawful custody.

(3) A child or young person who escapes from a remand home may be apprehended without warrant and brought back thereto; and any person who knowingly assists or induces a child or young person so to escape or knowingly harbours or conceals a child or young person who has so escaped, or prevents him from returning, shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding two hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

APPROVED SCHOOLS

5" (1) The manager of any boarding school may apply to the Director-General of Education to approve the school for the purpose of the education, training and detention of children and young persons to be sent there in pursuance of this Ordinance, and the Director-General may, subject to the approval of the Minister, and

Approval of schools.

after making such inquiries as he thinks fit, issue a certificate of approval to the manager of that school.

(2) If at any time the Minister is dissatisfied with the condition or management of a school so approved or considers its continuance as an approved school unnecessary, he may, by notice served on the manager, withdraw the approval of the school, as from a date specified in the notice, not being less than six months after the date of the notice, and upon the date so specified (unless the notice is previously withdrawn) the withdrawal of the approval shall take effect and the school shall cease to be an approved school:

Provided that the Minister, instead of withdrawing the approval, may by a notice served on the manager of the school prohibit the admission of persons to the school for such time as may be specified in the notice, or until the notice is revoked.

(3) The manager of an approved school may, on giving six months' notice in writing to the Director-General of Education of his intention so to do, surrender the certificate of approval of the school, and at the expiration of six months from the date of the notice (unless the notice is previously withdrawn), the surrender of the certificate shall take effect, and the school shall cease to be an approved school.

(4) No person shall in pursuance of this Ordinance be received into the care of the manager of an approved school after the date of the receipt by the manager of the school of a notice of withdrawal of the certificate of approval of the school or after the date of a notice of intention to surrender the certificate; but the obligation of the manager with respect to persons under his care at the respective dates aforesaid shall continue until the withdrawal or surrender takes effect.

(5) Notification of the grant of any certificate of approval of an approved school and of any notice of the withdrawal of, or intention to surrender, such a certificate, shall, within one month from the date thereof, be published in the Gazette.

CERTIFIED SCHOOLS

51. (1) The Minister may by Order published in the Gazette establish one or more certified schools for the purposes of this Ordinance. Establishment of certified schools

(2) The Minister may appoint to each certified school—

- (a) a manager and such other officers as to him may seem necessary;
- (b) one or more persons to be Visitors of that school.

(3) The provisions of section 35 of the Education Ordinance shall apply mutatis mutandis in the case of every certified school and of the children and young persons in every such school.

52. (1) Rules may be made—

- (a) for the management, administration, inspection, and control of remand homes, approved schools, and certified schools;
- (b) for the treatment, employment and control of children and young persons in remand homes, approved schools and certified schools, and for such children and young persons being visited from time to time by Visitors appointed under this Ordinance;
- (c) for the classification of children and young persons in remand homes;
- (d) for the grant of temporary leave of absence to children and young persons detained in approved or certified schools, for the grant to such children and young persons of licences permitting them to live outside such schools, and prescribing the persons by whom, and the conditions and restrictions subject to which, such leave or licence may be granted or revoked.

Rules regarding remand homes and approved and certified schools.

(2) Rules made under subsection (1) may distinguish between different schools or classes of schools.

(3) The power to make rules under subsection (1) shall—

- (a) in the case of rules relating to remand homes and to children and young persons in remand homes, be vested in the Minister charged with the administration of the subject of Remand Homes;
- (b) in the case of rules relating to approved and certified schools and to children and young persons in such schools, be vested in the Minister in charge of the subject of Education.

Classification, administration, and management of approved and certified schools.

53. (1) The Minister may, by Order published in the Gazette, classify approved and certified schools according to the age of the persons for whom they are intended, the religious persuasion of such persons, the character of the education and training given therein, their geographical position, and otherwise as he thinks best calculated to secure that a person sent to an approved or certified school is sent to a school appropriate to his case, or as may be necessary for the purposes of this Ordinance.

(2) The manager of an approved or certified school shall be bound to accept any person who, in pursuance of this Ordinance, is sent or transferred to his school or otherwise to his care, unless—

- (a) the school is an approved school for persons of a particular religious persuasion not being that of the person whom it is proposed to send or transfer; or
- (b) the manager of the school satisfies the Minister that there are already as many persons detained in that school, or, as the case may be, otherwise under his care, as is desirable.

Religious instruction, &c., to person detained in approved school.

54. (1) Where a child or young person who is detained in an approved school is of a religious persuasion other than that of the proprietor or manager of the school, such child or young person shall not, except with the express written consent of his parent, be

required or permitted by the person for the time being in charge of the school to attend any religious worship or religious observance or any instruction in religious subjects in the school or elsewhere.

(2) Where a child who is detained in any approved school is of the same religious persuasion as that of the proprietor or manager of the school, such child or young person may be compelled by the person for the time being in charge of the school to attend any religious worship or religious observance or any instruction in religious subjects.

55. (1) Any person who has been ordered to be sent to an approved or certified school and who— Escapes from approved and certified schools, &c.

- (a) escapes from the school in which he is detained or from any hospital, home or institution in which he is receiving medical attention; or
- (b) being absent from his school on temporary leave of absence or on licence, runs away from the person in whose charge he is, or fails to return to the school upon the expiration of his leave, or upon the revocation of his licence,

may be apprehended without warrant, and may (the provisions of any other written law to the contrary notwithstanding), be brought before the Magistrate's Court, sitting as a Juvenile Court, of the division in which he is found or his school is situate; and that court may (notwithstanding any limitations contained in this Ordinance upon the period during which he may be so detained in an approved or certified school) order him—

- (a) if he is under the age of sixteen years, to be brought back and to have the period of his detention in the school increased by such period not exceeding six months as the court may direct; or
- (b) if he has attained the age of sixteen years, to be brought back and to have the period of his detention so increased or to be sent for a period of

three years to any training school for youthful offenders established under the provisions of any written law.

general direction and control of the Minister in charge of the subject of Education.

FIT PERSONS

(2) Where a person is under subsection (1) brought back to his school, the period of his detention shall (notwithstanding any limitations contained in this Ordinance upon the period during which he may be detained in an approved or certified school) be increased, over and above any increase ordered by a court, by a period equal to the period during which he was unlawfully at large.

- (3) If any person knowingly—
 - (a) assists or induces a person to commit any such offence as is mentioned in subsection (1); or
 - (b) harbours or conceals a person who has committed such an offence, or prevents him from returning,

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

(4) If a Magistrate is satisfied by information on oath that an offence under subsection (1) has been committed and that there is reasonable ground for believing that some person named in the information could produce the offender, the court may issue a summons requiring that person to attend at the court on such date as may be specified in the summons, and to produce the offender, and if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Ordinance, be guilty of an offence and shall be liable to a fine not exceeding fifty rupees.

powers, &c, of
Director
General of
Education and
other officers

56. The Director-General of Education, and all such other officers of the Department of Education as may be specially or generally authorized by the Director-General in that behalf, shall, in the exercise and performance of the powers and duties conferred or imposed on them by or under this Ordinance, be subject to the

57. (1) The provisions of this section shall apply in relation to orders under this Ordinance committing a child or young person to the care of a fit person, and in this section the expressions " child " and " young person " mean a person with respect to whom such an order is in force irrespective of whether at the date of the making of the order, or at any subsequent date while the order is in force, he was, or is, a child or young person.

General provisions as to children and young persons committed to the care of it persons

(2) The Minister may, if he thinks fit, make rules as to the manner in which children and young persons so committed are to be dealt with and as to the duties of the persons to whose care they are committed.

(3) The Minister may, at any time in his discretion, discharge a child or young person from the care of the person to whose care he has been committed and any such discharge may be granted either absolutely or subject to conditions.

(4) An order committing a child or young person to the care of a fit person may, on the application of any person, be varied or revoked—

- (a) if the order was made by a court of summary jurisdiction, by that court sitting as a Juvenile Court;
- (b) in any case, by the Magistrate's Court, sitting as a Juvenile Court, of the division within which the child or young person is residing.

(5) If, on an application made by the parent or guardian or any near relative of a child or young person committed by any such order as aforesaid, any court having power to vary or revoke the order is satisfied that he is not being brought up in accordance with his religious persuasion, the court shall, unless a satisfactory undertaking is offered by the person to whose care he has been committed, either revoke the order or vary it in such manner as the court thinks best calculated to secure that he is thenceforth brought up in accordance with that persuasion.

Escapes from care of fit persons.

58. (1) A child or young person who runs away from a person to whose care he has been committed under this Ordinance may be apprehended without warrant and brought back to that person, if he is willing to receive him, and if he is not willing to receive him, may be brought—

- (a) if the order committing him to the care of that person was made by a court of summary jurisdiction, before that court sitting as a Juvenile Court;
- (b) in any case, before the Magistrate's Court, sitting as a Juvenile Court, of the division in which he was residing immediately before he ran away;

and that court may make any order with respect to him which the court might have made if that child or young person had been brought before it as being a child or young person who, having no parent or guardian, was beyond control.

- (2) Any person who knowingly—
 - (a) assists or induces a child or young person to run away from a person to whose care he has been committed under this Ordinance; or
 - (b) harbours or conceals a child or young person who has so run away, or prevents him from returning,

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

PART V*

PREVENTION OF CRUELTY AND EXPOSURE
To MORAL AND PHYSICAL DANGER

OFFENCES

Cruelty to children and young persons.

71. (1) If any person who has attained the age of sixteen years and has the custody, charge, or care of any child or young

person, wilfully assaults, ill-treats, neglects, abandons, or exposes him, or causes or procures him to be assaulted, ill-treated, neglected, abandoned, or exposed, in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement), that person shall be guilty of an offence and shall be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding three years, or to both such fine and imprisonment.

(2) The provisions of subsection (1) shall be in addition to and not in substitution of the provisions of section 308 of the Penal Code.

(3) For the purpose of this section—

a parent or other person legally liable to maintain a child or young person shall be deemed to have neglected him in a manner likely to cause injury to his health if, having sufficient means for the purpose, he has failed to provide adequate food, clothing, medical aid or lodging for him.

(4) A person may be convicted of an offence under this section—

- (a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person;
- (b) notwithstanding the death of the child or young person in question.

(5) Upon the trial of any person who has attained the age of sixteen years for any offence under section 296 or section 297 of the Penal Code, in respect of a child or young person of whom he had the custody, charge, or care, it shall be lawful for the jury, if they are satisfied that he is guilty of an offence under this section to find him guilty of that offence.

(6) Nothing in this section shall be construed as affecting the right of any parent, teacher, or other person having lawful control or charge of a child or young person to administer punishment to him.

* Part IV is repealed by Act No. 47 of 1956.

Causing of encouraging seduction or prostitution of girl under sixteen

72. (1) If any person having the custody, charge or care of a young person being a female, causes or encourages the commission in respect of her of any offence under section 345 or section 364 or section 364A of the Penal Code, he shall be guilty of an offence and shall be liable to imprisonment of either description for a term not exceeding two years.

(2) Where any offence mentioned in subsection (1) has been committed in respect of a child or young person being a female, a person shall, if he has knowingly allowed her to consort with, or to enter or continue in the employment of, any prostitute or person of known immoral character, be deemed to have caused or encouraged the commission of that offence for the purposes of this section.

Allowing persons under sixteen to be in brothels.

73. If any person having the custody, charge or care of a child who has attained the age of four years or of a young person, allows that child or young person to reside in or to frequent a brothel, he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred and fifty rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

Causing of procuring person under sixteen to beg.

74. (1) Any person, other than the father or mother of a child or young person, who causes or procures that child or young person to be in any street, premises or place for the purpose of begging or receiving alms, or of inducing the giving of alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise), shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees, or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

(2) Where any person is arrested for or charged with an offence under subsection (1) in respect of any child or young person and it is claimed that an offence under that subsection has not been committed by reason

of the fact that the person so arrested or charged is the father or mother of that child or young person, the burden of proving such fact shall be on the person so arrested or charged.

75. If any person gives, or causes to be given, to any child under the age of five years any excisable article within the meaning of the Excise Ordinance, except upon the order of a duly qualified medical practitioner, or in case of sickness, apprehended sickness, or other urgent cause, he shall be guilty of an offence and liable to a fine not exceeding fifty rupees.

Giving excisable article to children under five

76.* (1) Any person who sells to a person apparently under the age of sixteen years any tobacco or cigarettes, shall be guilty of an offence and shall be liable, in the case of a first offence to a fine not exceeding twenty rupees, in the case of a second offence to a fine not exceeding fifty rupees, and in the case of a third or subsequent offence to a fine not exceeding one hundred rupees;

sale of tobacco,&c to person under sixteen

Provided that a person shall not be guilty of an offence under this section in respect of any sale to any person on the written order of the parent, guardian or employer of the person to whom the sale is made.

(2) Any police officer may seize any tobacco or cigarettes in the possession of any person apparently under the age of sixteen years whom he finds smoking in any street or public place, and any tobacco or cigarettes so seized shall be disposed of in such a manner as the Inspector-General of Police may direct.

(3) Nothing in this section shall make it an offence to sell tobacco or cigarettes to, or shall authorize the seizure of tobacco or cigarettes in the possession of any person who is at the time employed by a manufacturer of or dealer in tobacco, either wholesale or retail, for the purposes of his business.

(4) For the purposes of this section the expression "tobacco" includes smoking mixtures intended as a substitute for tobacco, and the expression "cigarettes" includes cut tobacco rolled up in paper,

tobacco leaf, or other material in such form as to be capable of immediate use for smoking.

PART VI

SUPPLEMENTAL

Vagrants preventing children from receiving education.

77. (1) If a person habitually wanders from place to place and takes with him any child who has attained the age of five years he shall, unless he proves that the child is totally exempted from school attendance or that the child is not by being so taken with him prevented from receiving efficient elementary education, be guilty of an offence and shall be liable to a fine not exceeding ten rupees.

(2) Any police officer who finds a person wandering from place to place and taking a child with him may, if he has reasonable ground for believing that the person is guilty of an offence under this section, apprehend him without a warrant, and may take the child to a place of safety in accordance with the provisions of this Ordinance.

Offences under this Part to be cognizable offences.

78. Any offence under this Part shall, notwithstanding anything to the contrary in the First Schedule to the Code of Criminal Procedure Act, be a cognizable offence within the meaning of that Act.

Interpretation of Part V.

79. For the purposes of this Part—

Any person who is the parent or legal guardian of a child or young person or who is legally liable to maintain him shall be presumed to have the custody of him, and as between father and mother the father shall not be deemed to have ceased to have the custody of him by reason only that he has deserted, or otherwise does not reside with, the mother and the child or young person;

Any person to whose charge a child or young person is committed by any person who has the custody of him shall be presumed to have charge of the child or young person;

Any other person having actual possession or control of a child or young person shall be presumed to have the care of him.

SUPPLEMENTARY PROVISIONS AS TO LEGAL PROCEEDINGS

80. (1) Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that he is a child or young person, the court shall make due inquiry as to the age of that person, and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of the person so brought before it shall, for the purposes of this Ordinance, be deemed to be the true age of that person, and, where it appears to the court that the person so brought before it has attained the age of sixteen years, that person shall for the purposes of this Ordinance be deemed not to be a child or young person.

Presumption and determination of age

(2) Where in any charge or indictment for any offence under this Ordinance or any of the offences mentioned in the First Schedule, it is alleged that the person by or in respect of whom the offence was committed was a child or young person or was under or had attained any specified age, and he appears to the court to have been at the date of the commission of the alleged offence a child or young person, or to have been under or to have attained the specified age, as the case may be, he shall for the purposes of this Ordinance be presumed at that date to have been a child or young person or to have been under or to have attained that age, as the case may be, unless the contrary is proved,

(3) Where, in any charge or indictment for any offence under this Ordinance or any of the offences mentioned in the First Schedule, it is alleged that the person in respect of whom the offence was committed was a child or was a young person, it shall

not be a defence to prove that the person alleged to have been a child was a young person or the person alleged to have been a young person was a child in any case where the acts constituting the alleged offence would equally have been an offence if committed in respect of a young person or child respectively.

(4) Where a person is charged with an offence under this Ordinance in respect of a person apparently under a specified age it shall be a defence to prove that the person was actually of or over that age.

Evidence of husband or wife of accused person.

81. Notwithstanding anything in the Evidence Ordinance contained, the wife or husband of a person charged with an offence specified in the First Schedule shall be a competent witness for the prosecution.

Evidence of wages.

82. In any proceedings under this Ordinance a copy of an entry in the wages book of any employer of labour, or if no wages book be kept a written statement signed by the employer or by any responsible person in his employ, shall be evidence that the wages therein entered or stated as having been paid to any person, have in fact been so paid.

Bonds and recognizances.

83. Every bond or recognizance required to be executed or entered into under any provisions of this Ordinance by any court or to secure the attendance of any person at any court may be enforced—

- (a) where the court is a Primary Court, in like manner as a bond or a recognizance executed or entered into under the provisions of the Primary Courts' Procedure Act;
- (b) in any other case, in like manner as a bond executed under the provisions of the Code of Criminal Procedure Act.

Appeals from orders made under this Ordinance.

84. (1) An appeal shall lie from any order under this Ordinance in the following cases and by the following persons, that is to say—

- (a) in the case of an order committing a child or young person to the care of a fit person, requiring a child or

young person to be sent to a remand home or to an approved or certified school, or placing a child or young person under the supervision of a probation officer or other person, by the child or young person or by his parent or guardian on his behalf;

- (b) in the case of an order requiring a person to enter into a recognizance to be responsible for the good behaviour of a child or young person, by the person required to enter into the recognizance.

(2) Nothing in subsection (1) shall be construed as affecting any right of appeal conferred by any provision of this Ordinance or of any other written law.

(3) Every appeal from any order made under this Ordinance by any court shall lie to the Court of Appeal; and the relevant provisions of sections 320 to 360 of the Code of Criminal Procedure Act or of sections 54 to 63 of the Primary Courts' Procedure Act, as the case may be, shall apply to every such appeal.

(4) For the purposes of any appeal from an order made by a Primary Court under this Ordinance such order shall be deemed to be an appealable decision of a Primary Court in a criminal case, and all the provisions of any written law for the time being in force relating to appeals from decisions of Primary Courts in criminal cases shall apply accordingly in the case of appeals from such orders.

APPOINTMENTS, EXPENDITURE, AC.

85. There may be appointed for the purposes of this Ordinance a chief inspector, and such number of inspectors as may be deemed fit.

Power to appoint inspectors.

86. (1) The expenses incurred in the administration of this Ordinance shall be paid out of the Consolidated Fund.

Expenses of administration of Ordinance.

(2) The Minister charged with the subject of Education may make regulations providing for the payment of moneys from State funds towards the expenses of the maintenance in approved schools of

children and young persons ordered to be detained in such schools in pursuance of the provisions of this Ordinance, and prescribing the conditions upon which and the restrictions subject to which such payments may be made.

(3) Where regulations have been made under subsection (2), all such payments as are authorized thereby shall be made out of such moneys as may from time to time be voted by Parliament for the purpose.

Rules and regulations.

87. (1) Every rule and every regulation made by a Minister under this Ordinance shall be brought before Parliament by a motion that such rule or regulation shall be approved. No rule or regulation made by a Minister shall have effect until it has been approved by Parliament. Notification of such approval shall be published in the Gazette.

(2) A rule or regulation made by a Minister when approved by Parliament shall, upon the notification of such approval in the Gazette, be as valid and effectual as if it were herein enacted.

Interpretation.

88. In this Ordinance, unless the context otherwise requires—

"appointed date", in relation to Parts I, II, and III of this Ordinance means the 28th day of April, 1952 ; in relation to Part VI and section 76 of this Ordinance means the 31st day of December, 1952; and in relation to Part V of this Ordinance, except section 76 thereof, means the date on which that Part, except section 76 thereof, comes into operation by virtue of a Proclamation under section 1;

"approved school" means a school approved by the Minister under section 50, and "manager of an approved school" means the person having the management or control of an approved school, and where there are two or more of such persons, includes those persons;

"approved school order" means an order made by a court sending a child or young person to an approved school;

"certified school" means a school established under section 51;

"certified school order" means an order made by a court sending a child or young person to a certified school;

"child" means a person under the age of fourteen years;

"court" includes a court of summary jurisdiction;

"court of summary jurisdiction" means a Magistrate's Court or Municipal Court, and includes a Primary Court when exercising criminal jurisdiction;

"guardian", in relation to a child or young person, includes any person who, in the opinion of the court having cognizance of any case in relation to the child or young person or in which the child or young person is concerned, has for the time being the charge or control over the child or young person;

"indictable offence" means an offence triable only by the High Court whether with or without a jury or by the High Court at Bar without a jury;

"in need of care or protection" has the meaning assigned to that expression by section 34 ;

"local authority" includes any Municipal Council or Urban Council or Town Council;

"Municipal Court" means the court of a Municipal Magistrate;

"place of safety" means any remand home or hospital, or the residence of any person nominated by the Minister under section 14 (3);

"prescribed" means prescribed by regulation;

"probation officer" means a probation officer appointed under section 17 of the Probation of Offenders Ordinance ;

"regulation" means a regulation made by the Minister under this Ordinance ;

"scheduled offence" means an offence specified in the Second Schedule;

"young person" means a person who has attained the age of fourteen years and is under the age of sixteen years.

FIRST SCHEDULE

[Sections 34, 36, 80, and 81.]

OFFENCES AGAINST CHILDREN AND YOUNG PERSONS IN RESPECT OF WHICH SPECIAL PROVISIONS OF THIS ORDINANCE APPLY

- (1) Any offence under section 308 or section 360 of the Penal Code.
- (2) Any offence against a child or young person under any of the following sections of the Penal Code:—
Sections 296,297,343,345,357.360A, 364,364A.365,365A.
- (3) Any offence against any of the following sections of this Ordinance:—
Sections 71, 72,73 and 74.
- (4) Any other offence involving bodily injury to a child or young person.

SECOND SCHEDULE

[Section 88.]

LIST OF SCHEDULED OFFENCES

Offences under any of the following sections of the Penal Code ;—

Section 296,
Section 297,
Section 300,
Section 301, and
Section 383.

CHAPTER 32

CHILDREN AND YOUNG PERSONS (HARMFUL PUBLICATIONS)

Act AN ACT TO PREVENT THE DISSEMINATION OF CERTAIN PICTORIAL PUBLICATIONS
 No. 48 of 1956. HARMFUL TO CHILDREN AND YOUNG PERSONS.

[7th November. 1956.]

Short title. 1. This Act may be cited as the Children and Young Persons (Harmful Publications) Act.

Publications, to which this Act applies. 2. This Act shall apply to every book, magazine or other publication which is of a kind likely to fall into the hands of any child or young person and which consists wholly or mainly of such stories told in pictures, whether with or without the addition of written matter, as portray—

- (a) the commission of any crime, or
- (b) any act of violence or cruelty, or
- (c) any incident of a repulsive or horrible nature,

in such a way that such book, magazine or other publication would tend to corrupt a child or young person into whose hands it might fall.

Offences. 3. (1) Any person who—

- (a) prints, publishes, sells or lets on hire any publication to which this Act applies, or
- (b) has in his possession any such publication for the purpose of selling it or letting it on hire,

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:

Provided that, in any proceedings taken under this subsection against a person in respect of selling or letting on hire any publication or of having it in his possession for the purpose of selling it or letting it on

hire, it shall be a defence for him to prove that he had not examined the contents of that publication and had no reasonable cause to suspect that it was a publication to which this Act applies.

(2) Where a person is prosecuted for an offence under subsection (1) with respect to any publication (hereafter in this subsection referred to as " the relevant publication "), the court, if satisfied by information on oath or affirmation that there is reasonable cause to believe that such person has in his possession or under his control—

any copies of the relevant publication or any other publication to which this Act applies, or

any plate or photographic film prepared for the purpose of printing copies of the relevant publication or any other publication to which this Act applies,

may issue a search warrant authorizing any police officer named therein to enter any premises specified in the warrant and any vehicle or stall used by such person for the purposes of trade or business and to search the premises, vehicle or stall and seize—

- (i) any copies of the relevant publication and any copies of any other publication which the police officer has reasonable cause to believe to be one to which this Act applies, and
- (ii) any plate, or photographic film, which he has reasonable cause to believe to have been prepared for the purpose of printing copies of any such publication as is mentioned in paragraph (i) of this subsection.

(3) The provisions of the Code of Criminal Procedure Act relating to search warrants shall apply to search warrants issued under subsection (2).

(4) Where any person is convicted of an offence under subsection (1), and any such copy, plate or photographic film in his possession or under his control as is referred to in subsection (2) has been seized under that subsection, the court shall order such person to show cause why the seized article should not be destroyed and, if he fails to show cause, shall order such article to be destroyed. An order made under this subsection for the destruction of any seized article shall not take effect until the expiration of the period within which an appeal to the Court of Appeal in the matter of the proceedings in which the order was made may be lodged or, where such an appeal is lodged, until the appeal is finally decided.

(5) Where an offence under subsection (1) is committed by a body corporate, any person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(6) A prosecution for an offence under subsection (1) shall not be instituted except

by, or with the sanction of, the Attorney-General.

- 4. (1) The importation of—
 - (a) any publication to which this Act applies, or
 - (b) any plate or photographic film prepared for the purpose of printing copies of any such publication,

Prohibition of importation of publications to which this Act applies, &c.

is hereby prohibited.

(2) The provisions of subsection (1) shall be construed as one with the Customs Ordinance, and, for the purpose of the application of that Ordinance, goods the importation of which is prohibited by that subsection, shall be deemed to be goods the importation of which is prohibited by enactment.

5. In this Act, unless the context otherwise requires—

" child " means a person under the age of fourteen years;

" photographic film " includes photographic plate;

" plate " (except where it occurs in the expression " photographic plate ") includes block, mould, matrix and stencil; and

" young person " means a person who has attained the age-of fourteen years and is under the age of sixteen years.

CHAPTER 414

CHILAW BUDDHIST ASSOCIATION

Law No. 22 of 1978. A LAW TO INCORPORATE THE CHILAW BUDDHIST ASSOCIATION.

[22nd June, 1978]

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|---|---|---|------------------------------------|
| Short title. | 1. This Law may be cited as the Chilaw Buddhist Association (Incorporation) Law. | (e) to promote the physical, mental and social progress of members; | |
| Incorporation of the Chilaw Buddhist Association. | 2. From and after the date of the commencement of this Law, the President, Vice-Presidents and members of the Committee of Management for the time being of the Chilaw Buddhist Association (hereinafter referred to as "the Association") and such and so many persons as now are members of the Association or shall hereafter be admitted members of the Corporation hereby constituted, shall be a body corporate (hereinafter referred to as "the Corporation") with perpetual succession under the name and style of "The Chilaw Buddhist Association" and by that name shall and may sue and be sued in all courts with full power and authority to have and use a common seal and to change and alter the same at its pleasure. | (f) to secure, safeguard and promote the rights of Buddhists; and
(g) to promote harmony and co-existence with people of other religious beliefs. | |
| General objects of the Corporation. | 3. The general objects for which the Corporation is constituted are hereby declared to be— | 4. The Corporation shall have the power to do, perform and execute all such acts, matters, and things whatsoever, as are necessary or desirable for the promotion or furtherance of the objects of the Corporation or any one of them including the power to open, operate and close bank accounts, to borrow or raise moneys with or without security, to receive or collect grants and donations, to invest its funds, and to engage, employ and dismiss personnel required for the carrying out of the objects of the Corporation. | General powers of the Corporation. |
| | (a) to encourage members to adjust their ways of life in accordance with Buddhist principles and also to encourage and set examples for others to achieve that end; | 5. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation, be administered by a Committee of Management consisting of the office-bearers and such number of other persons elected in accordance with the rules in force for the time being of the Corporation. | Committee of Management. |
| | (b) to envisage ways and means for the proper observance and propagation of Buddhism and Buddhist education; | (2) The first Committee of Management of the Corporation shall consist of the office-bearers and the other members of the Committee of Management of the Association holding office on the date of commencement of this Law. | |
| | (c) to engage in social and general welfare activities; | 6. (1) It shall be lawful for the Corporation, from time to time, at any general meeting of the members, and by a majority of votes, to make rules for the admission, withdrawal, or expulsion of | Rules of the Corporation. |
| | (d) to promote mutual compassion, morality and harmony among Buddhists; | | |

members, for the conduct of the duties of the Committee of Management and of the various officers, agents and servants of the Corporation, for the procedure to be followed in the transaction of business, and otherwise generally for the management of the affairs of the Corporation and the accomplishment of its objects. Such rules when made may, at a like meeting, be altered, added to, amended, or cancelled, subject however to the requirements of subsection(2).

(2) No rule of the Corporation for the time being in force nor any rule which may hereafter be passed shall be altered, added to, amended or cancelled, except by a vote of two-thirds of the members present and voting at a general meeting of the Corporation.

(3) The rules of the Association in force on the date of the commencement of this Law shall be deemed to be the rules of the Corporation made under this section.

(4) The members of the Corporation shall be subject to the rules of the Corporation.

Debts due by and payable to the Association.

7. All debts and liabilities of the Association existing at the time of the coming into operation of this Law shall be

paid by the Corporation hereby constituted, and all debts due to and subscriptions and contributions payable to the Association, shall be paid to the Corporation for the purposes of this Law.

8. The Corporation shall be able and capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the Corporation for the purposes of this Law and subject to the rules for the time being of the said Corporation, with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Corporation may hold property, movable and immovable.

9. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of the President and either one of the Joint-Secretaries or the Treasurer, who shall sign their names to the instrument in token of their presence and such signing shall be independent of the signing of any person as a witness.

10. Nothing in this Law contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other person, except such as are mentioned in this Law, and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

CHAPTER 443

CEYLON BAPTIST COUNCIL

Ordinance No. 54 of 1944. AN ORDINANCE TO INCORPORATE THE CEYLON BAPTIST COUNCIL.

[23rd December. 1944.]

Short title. **1.** This Ordinance may be cited as the Ceylon Baptist Council Ordinance.

(d) the administration and management of the property of the council;

Incorporation. **2.** (1) From and after the date of the commencement of this Ordinance, the members for the time being of the Ceylon Baptist Council (hereinafter referred to as "the council") and such and so many persons as shall after that date be admitted members of the said council shall be and are hereby constituted a body politic and corporate (hereinafter referred to as the "corporation") with the name of "The Ceylon Baptist Council".

(e) the determination of the subscription payable by members and the collection of such subscription.

(f) generally the management of the affairs and the accomplishment of the objects of the council.

(2) All members of the council shall at all times be subject to the rules for the time being of the council.

(2) The corporation shall, in the said name and for the purposes hereinafter mentioned, have perpetual succession, and shall and may by the said name sue and be sued, plead and be impleaded, answer and be answered, in all courts and shall and may have and use a common seal with power to break, alter, and renew the same at its discretion.

4. No rule made by the council at any general meeting shall be altered, amended or rescinded except by the votes of a majority of the members present and voting at any subsequent general meeting.

Alteration of rules

5. The corporation shall be able and capable in law to receive and to hold property, both movable and immovable, which may be vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise; and all such property shall be held by the corporation for the purposes of this Ordinance, and subject to the rules for the time being of the said corporation with full power (subject to any trust attaching to such property and to the law regulating such trusts) to sell, mortgage, lease, exchange or otherwise dispose of the same.

Power of corporation to hold property.

Rules. **3.** (1) It shall be lawful for the council from time to time at any general meeting of the members, and by a majority of the members present and voting, to make such rules not inconsistent with this Ordinance, as the council may deem expedient for all or any of the following purposes:—

(a) the admission, withdrawal or expulsion of members;

(b) the powers, duties, functions and conduct of the various officers, agents and servants of the council;

(c) the procedure to be observed at meetings and in convening meetings and in the transaction of the business of the council,

6. On the coming into operation of this Ordinance, all property of the council, both movable and immovable, whether held in the name of the council or in the name of any person or persons in trust for the

Vesting of property.

council or for the benefit of any schools or institutions established or maintained by the council shall be and is hereby vested in the corporation, and such property together with all property hereafter to be acquired both movable and immovable and all subscriptions, donations, loans and other moneys received or to be received shall be held by the said corporation for the purposes of this Ordinance and subject to the rules for the time being of the council.

Seal of
corporation.

7. The seal of the corporation shall not be affixed to any instrument whatsoever

except in the presence of three members of the council, duly authorized for the purpose under the rules thereof, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

8. Nothing in this Ordinance contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Ordinance, and those claiming by, from, or under them.

Saving of
rights of the
Republic and
others.

CHAPTER 450

COLOMBO BIBLE COLLEGE

Act No. 32 of 1971. AN ACT TO INCORPORATE THE COLOMBO BIBLE COLLEGE.

[16th September. 1971.]

- Short title. **1.** This Act may be cited as the Colombo Bible College (Incorporation) Act.
- Incorporation of the Colombo Bible College. **2.** The persons who, on the date of commencement of this Act, are members of the Colombo Bible College (hereinafter referred to as " the College ") and such other persons as are hereafter enrolled as members of the College shall be a body corporate (hereinafter referred to as " the Corporation") with perpetual succession and a common seal and the name " The Colombo Bible College ". The Corporation may sue and be sued by that name.
- Objects of the Corporation. **3.** The objects of the Corporation shall be-
- (a) to assist believers in Jesus Christ to develop the whole man through a Bible centred programme;
 - (b) to provide the laity of all Christian denominations with a training which would make them better fitted to disseminate the Word of God and the Gospel of Jesus Christ by witness and teaching;
 - (c) to serve as a broad spectrum of the Christian community;
 - (d) to disseminate information relating to the Christian religion;
 - (e) to establish and maintain contact with other institutions, whether in Sri Lanka or not, having objects similar to those of the Corporation and to affiliate any such institution to the Corporation.
- Powers of the Corporation. **4.** The Corporation shall have the following powers:—
- (a) to acquire by purchase, exchange, gift, testamentary disposition or otherwise and to mortgage, lease, exchange, sell or otherwise dispose of, any property whatsoever;
 - (b) to raise and collect funds for the purpose of the Corporation;
 - (c) to utilise the moneys of the Corporation in order to meet all expenditure incurred by the Corporation in carrying out its objects, in remunerating its employees and in the exercise and performance of its powers and duties;
 - (d) to borrow and raise money, with or without security, for any of the purposes of the Corporation;
 - (e) to invest such of the moneys of the Corporation as are not immediately required for the purpose of the Corporation in such securities and in such manner as the Corporation may consider fit;
 - (f) to publish, sell or distribute newspapers, books, pamphlets or magazines, and to supply information, for the purpose of stimulating interest in and promoting the objects of the Corporation;
 - (g) to appoint all such officers and servants of the Corporation as it may deem necessary and to pay them such salaries, pensions, gratuities and allowances as may from time to time be determined by the Corporation;
 - (h) to provide facilities to promote the physical, mental and spiritual development of persons who are or

COLOMBO BIBLE COLLEGE

were employed by the Corporation as its officers and servants and of the members of the families of such persons;

- (i) to establish a fund or scheme for the provision of pensions or gratuities to the widows, children, next of kin or dependants of deceased officers and servants;
- (j) to make grants out of the moneys of the Corporation to any institution which is affiliated to the Corporation;
- (k) to enter into any arrangements with departments of Government, local authorities or any society or body, whether corporate or unincorporate, for promoting the objects of the Corporation;
- (l) to take all steps as may be necessary or desirable for the promotion of all or any of the objects of the Corporation.

reasonable and proper rent for premises let, to the Corporation by any member of the Corporation or by any company of which a member of the Corporation is a member holding shares not exceeding one-hundredth part of the capital of the company;

- (c) the payment of any grant by the Corporation to any member of the Corporation for any services done or rendered for the Corporation in promoting its objects;
- (d) the delivery of specimen copies of the publications of the Corporation to the members of the Council of Management of the Corporation;
- (e) the repayment of expenses incurred by any member, officer or servant of the Corporation in the performance of his functions or duties or in promoting the objects of the Corporation.

Sums payable by or to the College to be paid by or to the Corporation.

5. All debts and liabilities of the College existing at the time of the coming into operation of this Act shall be paid and discharged by the Corporation and all debts, subscriptions and contributions due to or payable to the College shall be paid to the Corporation.

Application of income and property of the Corporation.

6. The income and property of the Corporation shall be applied solely towards the promotion of the objects of the Corporation and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit, to the members of the Corporation:

Provided that nothing in the preceding provisions of this section shall prevent—

- (a) the payment in good faith of reasonable and proper remuneration to any officer or servant of the Corporation or to any member of the Corporation for any services rendered to the Corporation;
- (b) the payment of interest at a rate not exceeding five *per centum* per annum on money lent, or

7. (1) The Corporation shall cause Accounts and proper books of account to be kept with audit respect to—

- (a) all sums of money received or expended by the Corporation; and
- (b) the assets and liabilities of the Corporation.

(2) The accounts of the Corporation and the balance sheet shall be audited at least once a year by any qualified auditor or auditors appointed for the purpose by the Corporation.

(3) The accounts of the Corporation and the balance sheet shall be open to the inspection of the members of the Corporation at all reasonable times.

8. (1) The Corporation may, from time to time at any general meeting of the members and by a majority of the members present and qualified to vote at such Rules of the Corporation.

meeting, make rules for the management of the affairs of the Corporation and the accomplishment of its objects. In particular and without prejudice to the foregoing power, such rules may make provision in respect of all or any of the following matters;—

- (a) the admission, withdrawal and expulsion of members;
- (b) the determination of the subscription payable by members and the collection of such subscriptions ;
- (c) the procedure to be followed in convening meetings of members of the Corporation and the transaction of business at such meetings;
- (d) the conduct of the duties of the Council of Management and of the various officers, agents and servants of the Corporation;
- (e) the administration and management of the affairs of the Corporation.

(2) Any rule of the Corporation may be amended or rescinded in like manner as a rule may be made under subsection (I).

(3) The rules of the College set out in the Schedule* to this Act shall for all purposes, be deemed to be the rules of the Corporation made under this section and may accordingly be amended or rescinded or replaced by new rules.

(4) The members of the Corporation shall be subject to the rules of the Corporation.

9. If upon the dissolution of the Corporation there remains, after the satisfaction of all its debts and liabilities, any property including money, such property shall not be distributed among the members of the Corporation, but shall be transferred to some other institution or institutions which has or have objects similar to the objects of the Corporation and which is or are by rules or articles of association or otherwise prohibited from distributing its or their income and property amongst its or their members to an extent *as* great as is imposed on the Corporation by this Act. Such institution or institutions shall be determined by the members of the Corporation at or before the time of the dissolution of the Corporation or, in default thereof, by a court within the local limits of whose civil jurisdiction the whole or any part of such property is held or situate. If such property or any part thereof cannot be disposed of in accordance with the provisions of this section, such property or part shall be applied to some charitable object.

Disposal of the Corporation left after the payment of debts upon dissolution of the Corporation.

10. No member of the Corporation shall, for the purpose of discharging the debts and liabilities of the Corporation, be liable to make a contribution which shall exceed the amount of the annual subscriptions due from him to the Corporation and an additional sum of not more than one rupee.

Limit of liability of members of the Corporation.

11. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or any body corporate, or of any other persons, except such as are mentioned in this Act and those claiming from or under them.

Saving of the rights of the Republic and others.

* Schedule omitted.— Private enactment.

CHAPTER 464

CEYLON BAITHUL MAL FUND

Law
No. 9 of 1976.

A LAW TO INCORPORATE THE CEYLON BAITHUL MAL FUND.

[9th April, 1976.]

Short title.

1. This Law may be cited as the Ceylon Baithul Mal Fund (Incorporation) Law.

dismiss personnel required for the carrying out of the objects of the Corporation.

Incorporation of the Ceylon Baithul Mal Fund.

2. From and after the date of commencement of this Law, such and so many persons as now are members of the Ceylon Baithul Mal Fund (hereinafter referred to as "the Association") or shall hereafter be admitted members of the Corporation hereby constituted, shall be and become a Corporation with perpetual succession under the style and name of *The Ceylon Baithul Mal Fund" (hereinafter referred to as "the Corporation") and by that name may sue and be sued in all courts, with full power and authority to have and to use a common seal and to change and alter the same at its pleasure.

5. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation, be administered by a Committee of Management consisting of such number of persons as may be provided for in such rules and elected in accordance therewith.

General objects of the Corporation.

3. The general objects of the Corporation are hereby declared to be—

(2) There shall be elected by the Committee of Management from among their number a President, a Vice-President, a Secretary, an Assistant Secretary and a Treasurer.

(3) The first Committee of Management of the Corporation shall be the Committee of Management of the Association holding office on the date of commencement of this Law.

- (a) to collect funds by way of Zakat, Sadaqah, Khairath and other donations from Muslims;
- (b) to use and apply the said funds according to the Islamic law; and
- (c) to do all such other things as are incidental or conducive to the accomplishment of the above objects.

6. (1) It shall be lawful for the Corporation, from time to time, at any general meeting of the members and by a majority of votes, to make rules for the admission, withdrawal, or expulsion of members, for the conduct of the duties of the Committee of Management and of the various officers, agents and servants of the Corporation, for the procedure in the transaction of business, and otherwise generally for the management of the affairs of the Corporation and the accomplishment of its objects. Such rules when made may, at a like meeting, be altered, added to, amended, or rescinded.

General powers of the Corporation.

4. The Corporation shall have the power to do, perform and execute all such acts, matters and things whatsoever as are necessary or desirable for the promotion or furtherance of the objects of the Corporation or any one of them including the power to open, operate and close bank accounts, to borrow or raise moneys with or without security, and to engage, employ and

(2) The rules of the Association in force on the date of commencement of this Law shall be deemed to be the rules of the Corporation made under this section.

(3) All members of the Corporation shall be subject to the rules of the Corporation for the time being in force.

Debts due by and payable to the Association.

7. All debts and liabilities of the Association existing at the time of the coming into operation of this Law shall be paid by the Corporation hereby constituted, and all debts due to and subscriptions and contributions payable to the Association shall be paid to the Corporation for the purposes of this Law,

How the seal of the Corporation is to be affixed.

8. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of two members of the Committee of Management who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

9. The Corporation shall be capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the Corporation for the purposes of this Law and subject to the rules in force for the time being of the Corporation, with full power (subject to any trust attaching to such property and to the law regulating such trusts) to sell, mortgage, lease, exchange, or otherwise dispose of the same.

Corporation may hold properly movable and immovable.

10. Nothing in this Law contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Law and others claiming by, from, or under them.

Saving of the rights of the Republic and others.

CHAPTER 490

CEYLONESE BROTHERS OF ST. JOSEPH

Ordinance AN ORDINANCE TO INCORPORATE THE SOCIETY OF THE CEYLONESE BROTHERS OF
 No. 59 of 1942. §T. JOSEPH.

[2nd December, 1942]

Preamble. Whereas a society, styled and known as the Society of the Ceylonese Brothers of St. Joseph has heretofore been established at Jaffna, and is functioning in Jaffna District, Mannar, Batticaloa, Kalmunai and Hatton in Ceylon, and in Rangoon in Burma for the purpose of effectually carrying out and transacting all matters connected with the said society:

And whereas the said society has applied to be incorporated and it will be for the public advantage to grant the application:

Be it therefore enacted by the Governor of Ceylon with the advice and consent of the State Council thereof, as follows :—

Short title. **1.** This Ordinance may be cited as the Ceylonese Brothers of St. Joseph Ordinance.

Incorporation of the Society of the Ceylonese Brothers of St. Joseph. **2.** From and after the passing of this Ordinance, the Director-General, his four Councillors, the Bursar-General for the time being of the said Ceylonese Brothers of St. Joseph, as hereinafter constituted, and such and so many persons as now are or shall hereafter be admitted as members of the Society of the Ceylonese Brothers of St. Joseph, shall be a corporation, hereinafter called "the society" and shall have the name of "The Society of the Ceylonese Brothers of St. Joseph", and in that name shall have perpetual succession and shall and may sue and be sued in all courts in Sri Lanka, and may have and use a common seal and alter the same at their pleasure.

General objects of the society, **3.** The general objects for which the society is constituted are hereby declared to be—

- (1) to carry on educational work among the masses in all branches of knowledge;

- (2) to establish, maintain and otherwise assist schools, orphanages, farms and similar educational and charitable institutions; and
- (3) to undertake and carry on all such work as may appear necessary to attain the aims and objects of the society.

4. (a) The affairs of the society shall, Governing subject to any rules made under this body Ordinance, be administered by a governing body consisting of the Director-General, his four Councillors and Bursar-General who shall be elected once every six years at the General Chapter of the society which shall be composed of the following members:— The Director-General, his four Councillors, the Bursar-General, the Master of Novices, the local directors of each House, and one member elected by each of the existing Houses of the society.

The affairs of each House shall be administered by the local director and his two assessors or assessor appointed by the Director-General with the consent of his Councillors.

(b) The first members of the governing body shall be—

- (1) Rev. Brother E. I. Chrysostom, Director-General.
- (2) Rev. Brother S. M. Benjamin, First Councillor.
- (3) Rev. Brother P. Anthonipillai, Second Councillor.
- (4) Rev. Brother A. K. Joseph Mary, Third Councillor.

- (5) Rev. Brother N. Gnanathickam, Fourth Councillor.
- (6) Rev. Brother S. Aseervatham, Bursar-General.
- (7) Rev. Brother P. Ignatius, Novice-Master.

with all property hereafter to be acquired by the society, both movable and immovable and all contributions, donations, amounts of loans, and advances received or to be received, shall be held by the society for the purpose of this Ordinance, subject to any trusts under which such property may have been received.

Rules.

5. (1) It shall be lawful for the General Chapter or an extraordinary General Chapter at any of its meetings held after due notice by a majority of votes of the members present and voting at such meetings to make rules, not inconsistent with the Canon Law—

- (a) for the admission, withdrawal or expulsion of members;
- (b) for the conduct of the duties of the governing body and of the administration of the various Houses, office-bearers and other members of the society;
- (c) for the procedure in the transaction of business;
- (d) for the nomination of the local directors and other officers of the various Houses; and
- (e) otherwise generally for the management of the affairs of the society and the accomplishment of its objects.

(2) Any changes, additions or alterations in the rules made by the governing body will be effective only till the next General Chapter which shall either ratify or rescind such alterations or additions.

(3) All members of the society shall be subject to all rules made under this Ordinance.

Property vested in the society.

6. On the coming into operation of the Ordinance, all and every property belonging to the Society of the Ceylonese Brothers of St. Joseph, or in the name or names of any person or persons in trust for the society, shall be, and the same are hereby vested in the society and shall be held by the society in its corporate name, and the same together

7. All debts and liabilities of the said Society of the Ceylonese Brothers of St. Joseph which were in existence before the coming into operation of this Ordinance, shall be paid by the society, and all debts due to and contributions payable to the said Society of the Ceylonese Brothers of St. Joseph shall be paid to the society for the purposes of this Ordinance.

Debts, &c., due by and payable to the society.

8. The seal of the society shall not be affixed to any instrument whatsoever, except in the presence of three members of the governing body of the society, of whom one shall be the Director-General, who shall sign their names to the instrument in token of their presence, and such signature shall be independent of the signing of any person as a witness.

Seal.

9. The society shall be able and capable in law to take and hold any property, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise, and all such property shall be held by the society for the purpose of this Ordinance and subject to any rules made thereunder with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Society may hold property movable and immovable.

10. The income and property of the society whencesoever derived shall be applied solely towards the promotion of the objects of the society as set forth in this Ordinance.

Application of the funds of the society.

11. Except so far as is provided in this Ordinance or in any rules made thereunder, any dispute or doubt as to any matter or question affecting or relating to the principles or policy of the society shall be referred to the governing body of the society whose decision thereon shall be final.

Decision of disputes, &c., as to principles or policy.

Saving of
rights of the
republic and

12. Nothing in this Ordinance shall
prejudice or affect the rights of the
Republic, or of any body politic or

corporate, or of any other persons, except
such as are mentioned in this Ordinance
and those claiming by, from, or under them.

CHAPTER 454

CEYLON BIBLE SOCIETY

Law
No. 48 of 1975.

A LAW TO INCORPORATE THE GENERAL COUNCIL OF THE CEYLON BIBLE SOCIETY.

[5th December. 1975.]

Short title.

1. This Law may be cited as the General Council of the Ceylon Bible Society (Incorporation) Law.

w persons as the Corporation shall think fit for the purpose of assisting in furthering the circulation and use of the Holy Scriptures.

Incorporation of the General Council of the Ceylon Bible Society.

2. From and after the date of commencement of this Law, such and so many persons as are now members of the General Committee of the Ceylon Bible Society established at Colombo (hereinafter referred to as the " Society") and their successors in office shall be and become a Corporation with perpetual succession, under the name of " The General Council of the Ceylon Bible Society " (hereinafter referred to as "the Corporation"), and by that name may sue and be sued in all Courts, and shall have full power and authority to have and to use a common seal and to change and alter the same at its will and pleasure.

4. The Corporation shall have the following powers:— Powers of the Corporation.

(a) to solicit and receive subscriptions and gifts of all kinds whether absolute or conditional for the purposes of the Corporation;

(b) to borrow or raise money with or without security, for the purposes of the Corporation;

(c) to invest the moneys of the Corporation or any moneys entrusted to it in such investments (including mortgages of immovable property) and in such manner as may from time to time be determined by the Corporation;

(d) to acquire by purchase, exchange, gift, testamentary disposition or otherwise, and to sell, mortgage, lease, exchange or otherwise dispose of, any property whatsoever;

(e) to construct, alter and maintain any buildings required for the purposes Of the Corporation or for housing the staff of the Corporation;

(f) to draw, make, accept, endorse and deal with bills of exchange, promissory notes and other negotiable instruments;

Objects of the Corporation.

3. The general objects of the Corporation shall be—

(a) to encourage the wider circulation and use of the Holy Scriptures of the Old and New Testament (hereinafter referred to as " the Holy Scriptures ") or any part or parts thereof;

(b) to translate into Sinhala, Tamil or any other language or dialect and print, publish and circulate the Holy Scriptures or any part or parts thereof; and

(c) to co-operate with any other society or person for the purpose of circulating the Holy Scriptures and to make pecuniary grants and give such aid (pecuniary or otherwise) on such terms and to such societies

- (g) to appoint and dismiss or terminate the services of all such officers and servants of the Corporation as it may deem necessary and to pay them such salaries, pensions, gratuities and allowances as may from time to time be determined by the Corporation;
- (h) to establish or contribute to any charitable or benevolent fund which is calculated, directly or indirectly, to promote any of the objects of the Corporation or to establish or contribute to any fund or scheme for the grant of allowances, gratuities, pensions, or other benefits to officers or servants, past or present, of the Corporation or to the relatives or dependants of such persons;
- (i) to provide from time to time for the management of the affairs of the Corporation outside Sri Lanka in such manner as the Corporation deems fit and in particular to appoint any person or persons to be the attorney or agent of the Corporation for such purpose and upon such terms as may be thought fit;
- (j) to enter into any contract with any person, society or body of persons, whether corporate or unincorporate, or any Government department or local authority, for promoting the objects of the Corporation;
- (k) to accept and carry out any condition or trust subject to which any property is given to the Corporation for the furtherance of its objects;
- (l) to undertake and execute any charitable trust which may seem directly or indirectly conducive to or calculated to facilitate the carrying out of any of the objects of the Corporation;
- (m) to do all things necessary or expedient for the proper and effective carrying out of the objects of the Corporation.
5. All debts and liabilities of the Society existing at the time of the coming into operation of this Law shall be paid and discharged by the Corporation, and all debts, subscriptions and contributions due to or payable to the Society shall be paid to the Corporation.
6. The income and property of the Corporation shall be applied solely towards the promotion of the objects of the Corporation and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise or by way of a transfer of property to the members of the Corporation:
- Provided, however, that nothing in the preceding provisions of this section shall prevent—
- (a) the payment in good faith of remuneration to any officer or servant or member of the Corporation for services rendered to the Corporation, or the payment of pensions or other benefits to any officer or servant of the Corporation on retirement;
- (b) the payment of interest at a rate not exceeding that which may from time to time be prescribed by rules made by the Corporation on moneys borrowed from any member;
- (c) the payment of any grant by the Corporation to any member for any services done or rendered for the Corporation in promoting its objects;
- (d) the payment to any member, being the donor of any money or securities to the Corporation, or to his or her nominee or nominees during any period not exceeding the lifetime of the donor or such nominee or nominees, either of the actual interest derived from such gift or from the investments representing the same or of any annuity by way of annual interest on the amount of such gift at such rate as may be fixed by the Corporation; and
- Sums payable by or to the Society to be paid by or to the Corporation.
- Application of income and property of the Corporation.

(e) the repayment of expenses incurred by any member, officer or servant of the Corporation in the performance or discharge of his functions or duties or in promoting the objects of the Corporation.

Members of the Corporation not personally liable.

7. No member of the Corporation shall be personally liable for the debts, liabilities or obligations of the Corporation.

Affairs of the Corporation to be managed by the members of the General Council.

8. (1) The affairs of the Corporation shall be administered by the members of the General Council of the Corporation consisting of such persons as may be elected according to the rules of the Corporation.

(2) The members of the General Committee of the Ceylon Bible Society holding office on the date of commencement of this Law shall constitute the members of the first General Council of the Corporation.

Rules of the Corporation.

9. (1) It shall be lawful for the Corporation, from time to time, at any general meeting and by the votes of not less than two-thirds of the members present and voting, to make rules, not inconsistent with the provisions of this Law, for the admission, withdrawal, retirement or expulsion of members, and for the management of the affairs of the corporation and the accomplishment of its

objects. Such rules when made may, at a like meeting and in like manner, be altered, added to, amended or rescinded.

(2) *The* rules of the Society in force on the date of commencement of this Law shall be deemed to be rules of the Corporation made under this section and may be altered, added to, amended, rescinded or replaced by rules made under this Law.

(3) The members of the Corporation shall *be* subject to the rules of the Corporation.

10. The seal of the Corporation may be altered at the pleasure of the Corporation. It shall not be affixed to any instrument whatsoever except in the presence of two members administering the affairs of the Corporation who have been duly authorized for the purpose under the rules of the Corporation, Such members shall sign their names to the instrument in token of their presence and such signing shall be independent of the signing of any person as a witness.

Seal of the Corporation.

11. Nothing in this Law contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Law and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

CHAPTER 388

CENTRAL CULTURAL FUND

Act
No. 57 of 1980.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A FUND CALLED "THE CENTRAL CULTURAL FUND" FOR THE PROVISION OF FUNDS, FOR THE DEVELOPMENT OF CULTURAL AND RELIGIOUS MONUMENTS IN SRI LANKA, TO MEET EXPENSES INCURRED IN DEVELOPING, RESTORING, AND PRESERVING CULTURAL MONUMENTS AND THE DEVELOPMENT OF RELIGIOUS AND CULTURAL ACTIVITIES IN SRI LANKA AND ABROAD, AND TO PROVIDE FINANCIAL ASSISTANCE TO ARTISTS, CRAFTSMEN, WRITERS, PAINTERS, MUSICIANS AND OTHERS WHO ARE ENGAGED IN PROMOTING CULTURAL ACTIVITIES; TO PROVIDE FOR THE MAKING OF AWARDS TO PERSONS WHO HAVE SERVED THE NATION IN THE CULTURAL AND RELIGIOUS FIELDS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[18th December, 1980.]

Short title.

1. This Act may be cited as the Central Cultural Fund Act.

Establishment of the Central Fund.

2. (1) There shall be established a Fund to be called "the Central Cultural Fund" (hereinafter referred to as "the Fund").

(2) The Fund shall by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

(3) The Government may donate to the Fund from time to time grants for the purpose of carrying out the aims and objects of the Fund.

Board of Governors of the Fund.

3. (1) The administration, management and control of the Fund shall be vested in a Board of Governors constituted as hereinafter provided.

(2) The Board of Governors of the Fund (hereinafter referred to as the "Board") shall consist of—

- (a) the Prime Minister who shall be the Chairman of the Board ;
- (b) the Minister in charge of the subject of Cultural Affairs;
- (c) the Minister in charge of the subject of Finance;

(d) the Minister in charge of the subject of the United Nations Educational, Scientific and Cultural Organization;

(e) the Minister in charge of the subject of Tourism;

(f) Minister in charge of the subject of Hindu Affairs;

(g) the Deputy Minister to the Minister in charge of the subject of Cultural Affairs where there is such a Deputy Minister;

(h) the Secretary to the Prime Minister;

(i) the Secretary to the Ministry charged with the subject of Cultural Affairs;

(j) the Commissioner of Archaeology; and

(k) two other persons appointed by the Prime Minister, each of whom shall, subject to provisions of subsections (3) and (4), hold office for such period as may be specified in the letter of appointment issued to him by the Prime Minister.

(3) The Prime Minister may revoke the appointment of any member appointed by him under paragraph (k) of subsection (2).

(4) Any member of the Board appointed under paragraph (k) of subsection (2) may at any time resign from the Board by a letter in that behalf addressed to the Prime Minister.

(5) The Chairman or in the absence of the Chairman from any meeting, any member elected from among members present, shall preside at such meeting.

(6) The quorum for a meeting of the Board shall be four members.

(7) Subject to the provisions of subsection (6), the Board may regulate the procedure in regard to its meetings and the transaction of business at such meetings.

(8) No act or proceeding of the Board shall be deemed to be invalid by reason only of the existence of a vacancy among its members or any defect in the appointment of a member thereof.

Powers of the Fund.

4. The Board shall, in the name of the Fund, have power—

- (a) to receive grants, gifts or donations in cash or kind, whether from local or foreign sources;
- (b) to take or hold any property, movable or immovable, which may become vested in it by this Act or by virtue of any purchase, grant, gift, testamentary disposition or otherwise, and to sell, mortgage, lease, grant, convey, devise, assign, exchange, or otherwise dispose of, any movable or immovable property to which the Fund may become entitled ;
- (c) to give grants, endowments or scholarships for the furtherance of the objects of the Funds;
- (d) to enter into or perform, either directly or through officers and servants or agents authorized in writing in that behalf by the Board, all such contracts and agreements as may be necessary for the exercise, performance and discharge of the powers, duties and functions, and in carrying out the objects of the Fund,

(e) subject to the provisions of this Act to appoint, employ and remunerate officers and servants of the Fund and to make rules regarding the appointment, promotion, remuneration and disciplinary control of its employees and the grant of leave and other benefits to them;

(f) to invest moneys belonging to the Fund, and to recall, re-invest and vary such investments, at the discretion of the Board and to collect income accruing from such investments; and

(g) to make rules in relation to matters connected with the working of the Fund.

5. With effect from the date of commencement of this Act, all moneys lying to the credit of—

Transferring of moneys to the Fund.

- (1) the " Apollo Circus Account";
- (2) the " Kapilavastu Account ";
- (3) the " Dutugamunu Ashes Account";
- (4) the " Cultural Triangle Account"; and
- (5) the "Contributions from Public Servants Account",

shall be transferred to the Fund.

6. The Board shall maintain an account called " the Central Cultural Fund Account " at the Bank of Ceylon and there shall be credited to such account—

The Central Cultural Fund Account.

- (a) any grant received from the Government under section 2;
- (b) all moneys which are transferred to the Fund by virtue of the provisions of section 5;
- (c) any gifts or donations of money made to the Fund ;
- (d) any income from investments or other receipts due to the Fund;
- (e) any income derived from the levy of charges from visitors and tourists entering the area depicted in the

plan set out in the Schedule hereto (hereinafter referred to as "the Cultural Triangle "); and

- (f) all moneys that may accrue to the Fund after the date of commencement of this Act.

Chief Administrative officer of the Fund.

7. The Secretary to the Ministry charged with the subject of Cultural Affairs shall, subject to the direction of the Board, be the Chief Administrative Officer of the Fund.

Objects for which the moneys of the Fund may be applied.

8. It shall be the duty of the Board to apply the moneys belonging to the Fund mainly for the objects set out below or in such other manner as the Board may determine—

- (a) to meet all expenses incurred in developing cultural monuments in the Cultural Triangle and such other cultural monuments in any area, other than the Cultural Triangle, which in the opinion of the Board need to be developed in the public interest;
- (b) to meet all expenses of the Jetavana Dagobe Project and other similar projects;
- (c) for the promotion of religious activities within Sri Lanka or abroad;
- (d) for the advancement of religion or the maintenance of religious places, rites and practices;
- (e) for the making of awards to persons who have served the nation in the cultural and religious fields;
- (f) to provide financial assistance to artists, writers, painters, musicians, sculptors and others engaged in promoting cultural activities ; and
- (g) for any other religious or cultural purpose which is, in the opinion of the Board, of benefit or interest to the public.

Accounts, and audit.

9. (1) The Board shall cause proper books of accounts to be kept of the income and expenditure, and all other transactions of the Fund.

(2) The Auditor-General shall audit the accounts of the Fund every year. For the purpose of assisting him in the audit of such accounts the Auditor-General may employ the services of any qualified auditor who shall act under his direction and control,

(3) For the purpose of meeting the expenses incurred by him in the audit of the accounts of the Fund, the Auditor-General shall be paid out of the income of the Fund such remuneration as the Board may determine. Any remuneration received from the Fund by the Auditor-General shall, after the deduction therefrom of any sums paid by him to any qualified auditor or auditors employed by him for the purpose of such audit, be credited to the Consolidated Fund.

(4) The Board shall annually prepare a report on the administration of the affairs of Fund and a report of the finances during the year completed, which shall, together with the report of the Auditor-General, be tabled in Parliament and be published in the Gazette for general information before the end of the year succeeding the year to which such report of the finances relate.

(5) In this section, the expression " qualified auditor " means—

- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute; or
- (b) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute.

10. The financial year of the Fund shall be the calendar year.

Financial year of the Fund.

11. (1) The Minister in charge of the subject of Cultural Affairs may, with the concurrence of the Minister in charge of the subject of Finance, exempt the Fund from payment of any customs duty on any goods imported by the Fund, if the import of such

Exemption of Fund from certain duties and taxes.

CENTRAL CULTURAL FUND

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goods is considered to be conducive for the advancement of the aims and objects of the Fund.

(2) The Fund shall be exempt from any income tax or wealth tax payable under the Inland Revenue Act (No. 28 of 1979).

(3) Where any person makes a gift to the Fund, he shall be exempt from the payment of gifts tax under the Inland Revenue Act (No. 28 of 1979) to the extent of the total value of the gift.

(4) Where any person makes a donation to the Fund such donation shall be deemed to be an approved expenditure for the purposes of the Inland Revenue Act (No. 28 of 1979), and the donor shall be entitled to relief under that Act in respect of the total value of such donation.

(5) The Fund shall be exempt from the payment of entertainment tax under the Entertainment Tax Ordinance and other taxes and rates under the Municipal Councils Ordinance, the Urban Councils Ordinance, the Town Councils Ordinance or the Village Councils Ordinance, as the case may be.

(6) The provisions of this section shall have effect notwithstanding anything to the contrary in the Inland Revenue Act (No. 28 of 1979), and the Municipal Councils Ordinance, the Urban Councils Ordinance, the Town Councils Ordinance or the Village Councils Ordinance, as the case may be.

Appointment of public officers to the staff of the Fund.

12. (1) At the request of the Board any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the

Fund for such period as may be determined by the Board, or with like consent be permanently appointed to such staff.

(2) Where any officer in the public service is temporarily appointed to the staff of the Fund, the provisions of subsection (2) of section 13 of the Transport Board Law shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Fund, the provisions of subsection (3) of section 13 of the Transport Board Law shall, *mutatis mutandis*, apply to and in relation to him.

(4) Where the Board employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Fund by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

13. All officers and servants of the Fund shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and servants of the Fund deemed to be public servants under the Penal Code.

14. The Fund shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall accordingly apply.

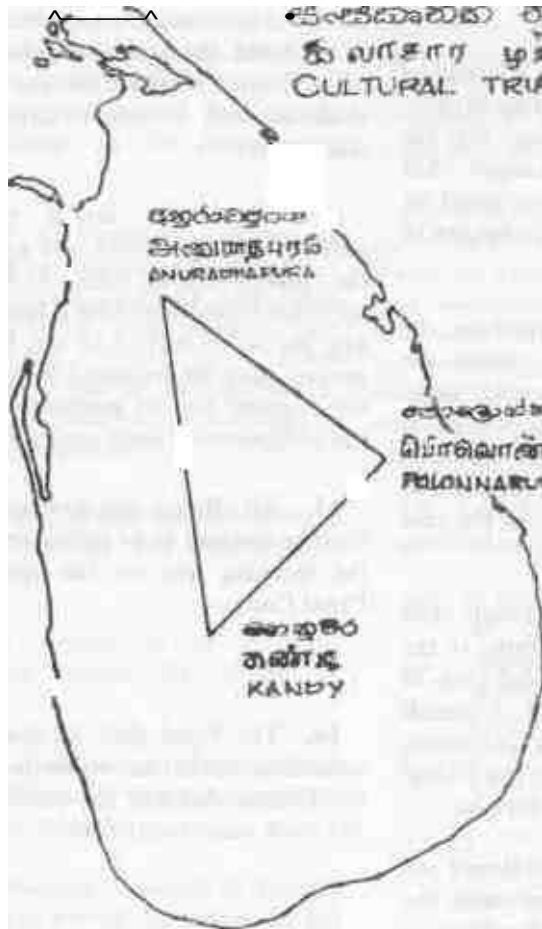
Fund deemed to be a scheduled institution within the meaning of the Bribery Act.

15. In this Act "Bank of Ceylon" means the Bank of Ceylon established by the Bank of Ceylon Ordinance.

Interpretation.

SCHEDULE

[Section 6.]



CEYLON COLLEGE OF PHYSICIANS

CHAPTER 114

CEYLON COLLEGE OF PHYSICIANS

Act
No. 9 of 1971.

AN ACT TO INCORPORATE THE CEYLON COLLEGE OF PHYSICIANS-

[27th February, 1971.]

Short title.

1. This Act may be cited as the Ceylon College of Physicians (Incorporation) Act.

Corporation and shall hold office until the first annual general meeting of the Corporation.

Incorporation of the Ceylon College of Physicians.

2. On and after the 27th day of February, 1971, such and so many persons as are now members of the Ceylon College of Physicians (hereinafter referred to as "the College") or shall hereafter be admitted members of the College shall be, and become a Corporation with perpetual succession under the name of "The Ceylon College of Physicians" (hereinafter referred to as "the Corporation") and by that name may sue and be sued in all courts, and shall have full power and authority to have and to use a common seal and to change and alter the same at their will and pleasure.

5. (1) It shall be lawful for the Corporation, from time to time, at any general meeting and by the votes of not less than two-thirds of the members present and voting, to make rules, not inconsistent with the provisions of this Act, for the admission, withdrawal and expulsion of members, and for the management of the affairs of the Corporation and the accomplishment of its objects. Such rules when made may, at a like meeting and in like manner be altered, added to, amended or rescinded.

Power to make rules.

General objects of the Corporation

3. The general objects for which the Corporation is constituted are hereby declared to be—

(2) The rules of the College in force at the time this Act comes into operation shall be deemed to be rules of the Corporation made under this section and may be altered, added to, amended, rescinded or replaced by rules made under this Act.

- (1) to advance the knowledge of, and to promote research in, medicine ;
- (2) to promote post-graduate education in medicine; and
- (3) to promote fellowship among those engaged in the practice of or research in medicine.

6. The Corporation shall be able and capable in law to take and hold property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise and all such property shall be held by the Corporation for the purposes of this Act, and subject to the rules for the time being of the Corporation, with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Corporation may hold property.

Council of the Corporation,

4. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation made as hereinafter provided, be administered by a Council of the Corporation consisting of such office-bearers and other members as may be provided for in such rules and elected in accordance therewith.

7. All debts and liabilities of the College existing on the 27th day of February, 1971, shall, with effect from that date, be deemed to be the debts and liabilities of the Corporation, and all debts, subscriptions and contributions due or payable to the College on that date shall be paid to the Corporation.

Debts and liabilities of the College and subscriptions, &c., due to the College.

(2) The members of the Council of the College holding office on the 27th day of February, 1971, shall be deemed to be the members of the first Council of the

Seal of the Corporation,

8. The seal of the Corporation shall not be affixed to any instrument except in the presence of two members of the Council of the Corporation who shall sign their names on the instrument in token of their presence and such signing shall be independent of the signing of any person as a witness.

9. Nothing in this Act contained shall affect or be deemed to affect the rights of the Republic or of any body politic or corporate or of any other persons except such as are mentioned in this Act and those claiming by, from or under them. Saving of the rights of the Republic, &c.

CHAPTER 260

COCONUT DEVELOPMENT

Act
No. 46 of 1971,
Law
No. 24 of 1975.

AN ACT TO PROVIDE FOR THE DEVELOPMENT AND REGULATION OF THE COCONUT INDUSTRY AND THE UTILIZATION OF LAND IN AND FOR COCONUT PLANTATIONS ; TO ESTABLISH BOARDS AND A PUBLIC AUTHORITY KNOWN AS THE COCONUT DEVELOPMENT AUTHORITY AND TO REGULATE THEIR POWERS AND FUNCTIONS ; TO PROVIDE FOR A CESS ON COCONUT PRODUCTS ; TO PROVIDE FOR THE MANAGEMENT AND ACQUISITION OF COCONUT PLANTATIONS, AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[30 th October, 1971.]

Short title.

1. This Act may be cited as the Coconut Development Act.

(vii) fix the number of members of the Board, the number so fixed being not more than seven ;

PART I

ESTABLISHMENT OF BOARDS AND THEIR CONSTITUTION

(viii) appoint, in accordance with the provisions of section 3, the members of the Board ;

Establishment of Boards.

2. (1) Where the Minister considers it desirable that a Board should be established for the purpose of performing any one or more, or any part, of the functions specified in section 20, the Minister may, by Order published in the Gazette—

(ix) appoint one of the members of the Board as the Chairman of the Board; and

(x) determine the quorum for any meeting of the Board.

(i) specify, subject to the provisions of section 20, the functions to which the Order relates;

(2) Upon the publication of an Order under subsection (1) in the Gazette, a Board (in this Act referred to as the " Board ") consisting of the persons who are for the time being members thereof by virtue of the provisions of section 3 shall, with the corporate name specified in such Order, be deemed to have been established. The Board shall be a body corporate and shall have perpetual succession.

(ii) declare that a Board shall be established to perform the specified functions;

(3) The Minister may, from time to time, by Order published in the Gazette, amend or rescind any Order made under subsection (1).

(iii) assign a corporate name to the Board;

(4) An Order made under subsection (1), as amended from time to time, is in this Act reierred to as the " IncoTpoiatvon Oldr ".

(iv) specify the initial capital of the Board which shall not exceed such amount as shall have been approved by Parliament;

(y) specify the special powers, if any, of the Board;

(vi) state the principal place of business of the Board;

(5) The Board may sue and be sued in its corporate name.

(6) The functions of the Board shall be those specified in the Incorporation Order.

(7) The special powers of the Board shall be those specified in the Incorporation Order.

(8) The principal place of business of the Board shall be that specified in the Incorporation Order.

Members of the Board.

3. (1) The Board shall consist of such number of members as is fixed by the Incorporation Order and from time to time appointed by the Minister:

Provided that, on any Board that handles coconut products for foreign markets, one such member shall be nominated for appointment by the Minister in charge of the subject of Trade.

(2) The Minister shall appoint one of the members of the Board to be the Chairman of the Board.

Disqualification.

4. A Member of Parliament shall not be qualified to be a member of the Board.

Terms of office of members.

5. Every member shall hold office for a period of three years, unless he is removed from, or otherwise vacates, office earlier :

Provided 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 he earlier is removed from or otherwise vacates office.

Resignation and removal of members.

6. (1) A member may resign office by letter addressed to the Minister.

(2) The Minister may, if he thinks it expedient to do so, remove a member from office without assigning any reason.

Appointment of acting members.

7. Where a member is temporarily unable to discharge the duties of his office on account of ill health, absence from Sri Lanka or any other cause, the Minister may appoint some other person to act as member in his place.

8. Any member of the Board shall be eligible for reappointment. Eligibility of members for reappointment.

9. The quorum for any meeting of the Board shall be such number as may be determined by the Minister in the Incorporation Order. Quorum for meetings of the Board.

10. Subject to the other provisions of this Act, the Board may regulate its procedure in regard to the meetings of the Board and the transaction of business at such meetings. Procedure at meeting of the Board.

11. (1) The Chairman of the Board shall preside at every meeting of the Board at which he is present. In the absence of the Chairman from any meeting of the Board, a member chosen by a majority of the members present shall preside at such meeting. Who may preside at meetings.

(2) The Chairman of any meeting of the Board shall, in addition to his own vote, have a casting vote.

12. Any act or proceeding of the Board shall not be deemed to be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of any of its members. Vacancy among members not to invalidate acts of the Board.

13. The members of the Board may be remunerated in such manner and at such rates as the Minister may, in consultation with the Minister in charge of the subject of Finance, determine. Remuneration of members of the Board.

14. (1) The Board shall have a common seal which shall be in the custody of such person as the Board may decide from time to time. Seal of the Board-

(2) The seal of the Board may be altered in such manner as may be determined by the Board.

(3) The seal of the Board shall not be affixed to any instrument or document except in the presence of two members of the Board, both of whom shall sign the instrument or document in token of their presence.

(4) The Board shall maintain a register of the instruments or documents to which the seal of the Board is affixed.

Board subject to direction and control by the Authority.

15. In the exercise, discharge and performance of its powers and functions, the Board shall be subject to direction and control by the Authority established by section 24.

Member to disclose interest in contract proposed to be made by the Board.

16. A member who is directly or indirectly interested in a contract proposed to be made by the Board shall disclose the nature of his interest at a meeting of the Board. The disclosure shall be recorded in the minutes of the Board, and that member shall not take part in any deliberation or decision of the Board with respect to such contract.

Members and employees of the Board deemed to be public servants.

17. All members and employees of the Board shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Board deemed to be a scheduled institution within the meaning of the Bribery Act.

18. The Board shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Delegation of functions and powers by the Board.

19. (1) Subject to the provisions of this Act, the supervision, control and administration of the affairs and business of the Board shall be vested in the Board.

(2) The Board may delegate to any member of the Board or to any employee of the Board any of its powers or functions.

(3) Every delegate appointed under subsection (2) shall exercise or perform the power or function delegated to him subject to direction and control by the Board.

PART II

FUNCTIONS AND POWERS OF THE BOARD

Functions of the Board.

20. (1) The Minister may, in the Incorporation Order, assign to the Board any one or more, or any part, of the following functions, namely—

(a) the development and assistance in the development of the productivity of land in coconut plantations ;

(b) the cultivation and assistance in and promotion and regulation of the cultivation of land with coconut;

(c) the identification of land in coconut plantations suitable for inter-planting with other crops (including pasture) and the promotion, direction, carrying out and assistance in the carrying out of inter-planting programmes on such land;

(d) the promotion and regulation of, assistance to, and engagement in, animal husbandry on land in coconut plantations;

(e) the specification, popularization, promotion and direction of proper cultivation practices in respect of the growing of coconut and other crops in coconut plantations;

(f) the manufacture, and assistance in and promotion and regulation of the manufacture, of coconut products;

(g) the promotion of new techniques in the processing of coconut products;

(h) the promotion and direction of the modernization, and assistance in increasing the efficiency, of establishments manufacturing coconut products;

(i) the prescription and maintenance of standards of quality of coconut products manufactured in or exported from Sri Lanka;

(j) the purchase and sale, and the regulation of the purchase and sale, of coconut products, and the formulation and implementation, or assistance in the formulation and implementation, of minimum and maximum price schemes and price stabilization schemes for coconut products in general, and for small holders' coconut products in particular;

(k) the export and import, and the regulation of the export and import and of the export price and import price, of coconut products ;

- (l) the maintenance, promotion and creation of demand for coconut products, both within and outside Sri Lanka, by advertising, by initiating, financing, supporting and supervising promotional work, by establishing, managing, supervising and supporting sales rooms and agencies, by organizing, assisting and participating in, exhibitions and fairs, and by any other means necessary for the purpose ;
- (m) the conducting of market research into all aspects of the transport and marketing of coconut products within and outside Sri Lanka;
- (n) the conducting and furthering of scientific research in respect of, the growth and cultivation of coconut palms, the growing of other crops and the engagement in animal husbandry in coconut plantations and the prevention and cure of diseases and pests;
- (o) the establishment and maintenance of research institutes, experimental stations and nurseries;
- (p) the conducting and furthering of scientific research in connexion with the processing and utilization of coconut products;
- (q) the establishment and maintenance of pilot plants for the processing of coconut products, and the fabrication of experimental processing equipment;
- (r) the training of advisory and extension workers to assist the coconut industry;
- (s) the guiding and advising of the coconut industry on all matters of a technical nature;
- (t) the promotion of co-operative and collective forms of management and ownership of coconut plantations and of establishments manufacturing or trading in coconut products.

(2) The Minister may, in the Incorporation Order, limit the scope of any one or more, or any part, of the functions assigned to the Board, to a region or to a coconut product or to a class or size of coconut plantation, or in any other way specified in a manner determined by the Minister.

21. Nothing in section 20 shall be construed as imposing on the Board, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court or tribunal to which the Board would not otherwise be subject.

No function of the Board to be enforceable in court.

22. (1) The Board shall have the power to do all such acts and take all such steps as may be necessary for, or conducive or incidental to, the performance of its functions.

Powers of the Board-

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Board shall have the power—

- (a) to acquire in any manner whatsoever and hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property;
- (b) to enter into and perform or carry out, whether directly or through any officer or agent authorized in that behalf by the Board, all such contracts or agreements as may be necessary for, or conducive or incidental to, the performance of the functions and the exercise of the powers of the Board ;
- (c) to construct, manufacture, purchase, maintain and repair anything necessary for, or conducive or incidental to, the performance of the functions of the Board ;
- (d) to purchase, transport, store and supply any commodity, equipment or machinery necessary for, or conducive or incidental to, the performance of the functions of the Board;

- (e) to train, or assist financially the training of, persons to do work necessary for, or conducive or incidental to, the performance of the functions of the Board ;
- (f) to provide services of any kind that may be necessary for, or conducive or incidental to, the performance of the functions of the Board ;
- (g) to levy fees or other charges for services performed, or facilities or equipment provided, by the Board ;
- (h) to provide assistance, including financial assistance through loans, guaranteeing of loans, subsidies and grants, to any co-operative society, union of co-operative societies, local authority, State-Sponsored Corporation or Government Department or any person or body of persons (whether corporate or not) engaged in the cultivation of coconut or of other crops in coconut plantations, animal husbandry on land in coconut plantations, manufacturing or trading in coconut products, or in the provision of any service, facility, commodity or equipment, or in the doing of any act or thing necessary for, or conducive or incidental to, the performance of the functions and the exercise of the powers of the Board;
- (i) to own or manage, or participate in the ownership or management of, or assist in or supervise the management of, any land, property, undertaking, or activity connected with the cultivation of coconut or other crops in coconut plantations, animal husbandry in coconut plantations, or the manufacture of or trading in coconut products ;
- (j) to appoint, employ, remunerate and control such officers, servants and agents as may be necessary for, or conducive or incidental to, the performance of the functions and the exercise of the powers of the Board;
- (k) to establish and maintain provident funds, gratuity schemes and pension funds, and provide financial assistance, welfare and recreational facilities, houses, hostels and other like accommodation, for the persons employed by or serving the Board;
- (l) subject to the provisions of this Act, to make rules in respect of the administration of the affairs of the Board; and
- (m) (i) to require any person to maintain true and accurate records, in a form and containing the particulars specified by the Board, relating to any matter as may be necessary for, or conducive or incidental to, the performance of the functions or the exercise of the powers of the Board;
- (ii) to require any person to furnish, within a specified period of time, all such returns, information and explanations as are within the knowledge of that person relating to any matter as may be necessary for, or conducive or incidental to, the performance of the functions or the exercise of the powers of the Board;
- (iii) to require any person to produce or cause to be produced before a specified date such documentary or other evidence as the Board may require for the purpose of verifying any facts, entered in any record maintained under sub-paragraph (i), or stated in any return, information or explanation furnished under sub-paragraph (ii);
- (iv) to enter and inspect, at any reasonable time, any land, building, office, store, factory, shed or premises for the

purpose of examining and verifying any records or for the purpose of verifying any particulars furnished in any return made or information or explanation given to the Board under sub-paragraphs (i) and (ii); and

- (v) to enter at any reasonable time any land, building, office, store, factory, shed or premises for the purpose of inspecting and checking stocks of any coconut products.

(3) Any person who fails, without reasonable cause to comply with the provisions of sub-paragraph (i) or sub-paragraph (ii) or sub-paragraph (iii) of paragraph (m) of subsection (2), or who knowingly maintains false records or furnishes false returns, information, explanations, or documentary or other evidence, or who obstructs the Board in the exercise of the powers conferred on it by sub-paragraph (iv) or sub-paragraph (v) of paragraph (m) of subsection (2), shall be guilty of an offence under this Act.

(4) Any particulars obtained by the Board under the provisions of sub-paragraphs (ii), (iii), (iv) and (v) of paragraph (m) of subsection (2) shall be treated as confidential by the Board and by every member, officer or servant thereof, except where the person furnishing such particulars otherwise agrees, or when the disclosing or publishing of such particulars is necessary for the purposes of this Act or of any legal proceedings thereunder; and any person who knowingly discloses or publishes any such particulars shall be guilty of an offence:

Provided that nothing in this subsection shall be deemed to prohibit the disclosure or publication for statistical purposes of facts and figures which make no reference to any particular individual or business.

Special powers of the Board, **23.** (1) The Minister may, in the incorporation Order, assign to the Board any one or more, or any part, of the

following special powers, namely the power—

- (a) to register—
 - (i) coconut plantations and the proprietors of such plantations,
 - (ii) millers and other manufacturers of coconut products,
 - (iii) auctioneers and brokers engaged in the purchase and sale of coconut products, and
 - (iv) dealers in and shippers of coconut products;

- (b) to determine the qualifications, terms and conditions, procedure and annual fees payable for such registration, and in its discretion to remove from or restore to the register any name:

Provided that any applicant for registration dissatisfied with any decision of the Board may appeal to the Minister in the prescribed manner, and provided also that no such registration or removal or restoration thereof shall operate as *res adjudicata* on any question in any civil action in which title is in issue;

- (c) to engage in, regulate, control, supervise, direct, manage and inspect the cultivation and utilization of land in coconut plantations and the cultivation of land with coconut;
- (d) to engage in, regulate, control, supervise, direct, manage and inspect the manufacture, packing, storing, transport and sale of coconut products;
- (e) to inspect, supervise, regulate and control the factories, stores, yards, buildings, premises, equipment and machinery used or to be used for the manufacture, packing or storing of coconut products;

- (f) to engage in, regulate, control, supervise, direct, manage and inspect the purchase, sale, transport, storing, import and export of coconut products ;
- (g) to establish sales rooms for the purchase and sale of coconut products and to determine the procedure at such sales rooms, and the procedure for the delivery and receipt of and payment for any product sold at the sales rooms; and
- (h) to issue licences for the export of coconut products, and to determine the qualifications, terms and conditions and procedure for the issue of such licences, and in its discretion to refuse to issue a licence, or cancel a licence already issued, to any person:

Provided that any applicant for a licence dissatisfied with any decision of the Board may appeal to the Minister in the prescribed manner.

(2) The Minister may, in the Incorporation Order, limit the exercise of any one or more, or any part, of the special powers assigned to the Board, to a region, or to a coconut product, or to a class or size of coconut plantation, or in any other way specified in a manner determined by the Minister.

PART III

COCONUT DEVELOPMENT AUTHORITY-
ITS CONSTITUTION, FUNCTIONS
AND POWERS

Coconut Development Authority.

24. There shall be established an Authority which shall be called the Coconut Development Authority (in this Act referred to as the " Authority ").

Authority to be a corporation,

25. The Authority shall, by the name assigned to it by section 24, be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

Members of the Authority.

26. (1) The Authority shall consist of five members all of whom shall be appointed by the Minister.

(2) The Minister shall appoint one of the members of the Authority to be the Chairman of the Authority.

27. The quorum for any meeting of the Authority shall be three, Quorum for meeting of the Authority.

28. In the exercise, discharge and performance of its powers and functions the Authority shall be subject to direction and control by the Minister. Authority subject to direction and control by Minister.

29. The provisions of sections 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 16, 17, 18 and 19 shall apply *mutatis mutandis* to the Authority in regard to the matters specified therein. Provisions of sections 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 16, 17, 18 and 19 to apply.

30. (1) The functions of the Authority shall be— Functions of the Authority.

(a) to assist the Minister in the formulation of policy and in the determination of development priorities in respect of the coconut industry and the economic utilization of land in and for coconut plantations;

(b) to formulate or assist in the formulation of projects and schemes in accordance with the development priorities so determined;

(c) to implement or assist in the implementation of the projects and schemes so formulated;

(d) to co-ordinate the activities of the Boards established by the Minister under this Act;

(e) to approve the annual budget of the Boards and to provide them with funds;

(f) to advise and assist the Boards in the formulation, implementation and maintenance of proper management accounting systems;

(g) to evaluate the progress of the Boards in relation to the policy and development priorities determined by the Minister;

(h) to assist financially and in any other way any person or body of persons (whether corporate or not) engaged in scientific research in respect of any aspect of the coconut industry and its products, or the utilization of land in and for coconut plantations, and to co-ordinate such research activities;

- (i) to enter into co-operation, with the consent of the Minister, with international organizations having allied interests and functions ;
- (j) to advise the Minister on all matters relating to or affecting the coconut industry;
- (k) to take all such measures which, in the opinion of the Authority, are necessary for the development and revitalization of the coconut industry.

(2) Where the Minister considers it desirable he may, by Order published in the Gazette, assign to the Authority any one or more, or any part, of the functions specified in section 20.

(3) The Minister may, from time to time, by Order published in the Gazette, amend or rescind any Order made under subsection (2).

Powers of the Authority.

31. (1) The Authority shall have the power to do all such acts and take all such steps as may be necessary for, or conducive or incidental to, the performance of its functions.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Authority shall have all the powers provided for in section 22 (2) in like manner as the Board.

(3) Where the Minister considers it desirable, he may, by Order published in the Gazette, assign to the Authority any one or more, or any part, of the special powers provided for in section 23 in like manner as the Board.

(4) The Minister may, from time to time, by Order published in the Gazette, amend or rescind any Order made under subsection (3).

PART IV

FINANCE AND ACCOUNTS OF THE BOARD AND THE AUTHORITY

Capital of the Board.

32. (1) The initial capital of the Board shall be that specified in the Incorporation Order.

(2) The capital of the Board may be increased from time to time by such amount as may be voted by Parliament or

authorized by resolution of Parliament to be paid to the Board for the purpose of increasing such capital.

33. (1) For the purposes of this Act there shall be charged, levied and paid, in addition to any tax or export duty imposed under any written law other than this Act, a cess called the coconut cess, in respect of any coconut product, in such manner and of such amount as may from time to time be determined by resolution of Parliament.

Coconut cess.

(2) This section shall have effect as though it formed part of the Customs Ordinance and the provisions of that Ordinance shall apply accordingly in so far as the cess is levied at the point of export.

(3) The proceeds of the coconut cess shall be paid to the Authority.

(4) Regulations may be made in respect of all matters necessary for the effective levy and collection of the coconut cess, and its payment to the Authority.

34. The Authority may receive such sums of money as may, from time to time, be voted or authorized by resolution of Parliament.

Authority "to receive sums voted or authorized by Parliament.

35. The financial year of the Board and the Authority shall commence on the first day of January of each year and terminate on the thirty-first day of December of that year.

Financial year.

36. The annual budget of the Board as approved by the Authority and the annual budget of the Authority shall be submitted to the Minister for his approval. Any subsequent amendments to the budget of the Board or the Authority shall also be submitted to the Minister for his approval.

Budget to be approved by Minister.

37. The Authority shall out of its funds pay out to the Board, from time to time, such sums of money as are necessary to finance the activities of the Board.

The Authority to make payments to the Board.

38. The moneys of the Board and the Authority may be utilized by the Board and the Authority respectively for the purpose of incurring any expenditure, necessary for, or conducive or incidental to, the performance of their functions and the exercise of their powers under this Act, and provided for in the budget or amended budget approved by the Minister.

Incurring of expenditure.

Power to borrow.

39. (1) It shall be lawful for the Board or the Authority, subject to the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance, to borrow from the Government or any person or persons such sum or sums of money as may be necessary for, or conducive or incidental to, any of the purposes of the Board or the Authority respectively.

(2) Every loan raised by the Board or the Authority shall be subject to such rate or rates of interest and to such conditions for the repayment thereof as may be approved by the Minister.

(3) For the purpose of securing the repayment of any sums borrowed and the payment of interest accruing thereon, the Board or the Authority may mortgage or assign to the lender by or on whose behalf such sum or any part thereof may be lent, any property belonging to the Board or the Authority respectively or assign to such lender any right to any sums of money accruing to them.

Exemption from customs duty.

40. In any specific case where the Board or the Authority imports or purchases out of bond any goods other than goods relating to any commercial activity of the Board or the Authority, the Minister in charge of the subject of Finance may, at the request of the Minister, exempt such goods from the payment of any customs duty.

Accounts.

41. The Board and the Authority respectively shall, in respect of each financial year, cause proper accounts of their income and expenditure and of all their other transactions to be kept and shall prepare annual statements of accounts and statistics relating to their activities, in such form and containing such particulars as the Minister may determine.

Audit of accounts.

42. (1) The accounts of the Board and the Authority, referred to in section 41, in respect of each financial year, shall be submitted to the Auditor-General for audit before the lapse of four months from the end of the financial year. For the purpose of assisting him in the audit, the Auditor-General may employ the services of any qualified auditor or auditors who shall act under his direction and control.

(2) For the purpose of meeting the expenses incurred by him in auditing the accounts of the Board and the Authority, the Auditor-General shall be paid from the funds of the Board or the Authority such remuneration as the Minister may, with the concurrence of the Minister in charge of the subject of Finance, determine. Any remuneration received by the Auditor-General shall, after deducting any sums paid by him to any qualified auditor employed by him for this purpose of such audit, be credited to the Consolidated Fund.

(3) The Auditor-General and any person assisting him in the audit of the accounts of the Board or the Authority shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Board or the Authority as the Auditor-General may consider necessary for the purposes of the audit, and shall be furnished by the Board or the Authority or their officers with such information within their knowledge as may be required for such purposes.

43. (1) The Auditor-General shall examine the accounts of the Board and the Authority and furnish a report—

The Auditor-General's report.

- (a) stating whether he has or has not obtained all the information and explanations required by him;
- (b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Board or the Authority; and
- (c) drawing attention to any item in the accounts which in his opinion may be of interest to Parliament in any examination of the activities and accounts of the Board or the Authority.

(2) The Auditor-General shall transmit his report to the Board and the Authority respectively together with the audited accounts within four months of the receipt of the accounts by him.

The Auditor-General's report to be transmitted to the Minister.

44. (1) The Board and the Authority shall, on the receipt of the audited accounts and the Auditor-General's report each year, transmit such report and such accounts together with statements by the Board and the Authority respectively of their activities and performance during the financial year to which such report relates, to the Minister who shall cause copies thereof to be laid before Parliament within ten months of the close of the financial year to which the accounts relate.

(2) The statement by the Board referred to in subsection (1) shall contain such statistics and information relating to the coconut industry as determined by the Minister.

(3) The statement by the Authority referred to in subsection (1) shall include a report on the state of the coconut and allied industries in Sri Lanka and the world, prepared in a manner determined by the Minister.

47. Any person who prevents or obstructs any person authorized in that behalf by the Authority or the Board in the carrying out of the provisions of section 45 or section 46, shall be guilty of an offence.

Prevention of or obstruction to persons acting under section 45 or section 46.

48. Where, in the opinion of the Minister, the acquisition of any coconut plantation is necessary for the purposes of this Act, he may by Order published in the Gazette vest such coconut plantation in the Authority or the Board with effect from such date as shall be specified in the Order.

Acquisition of a coconut plantation.

49. An Order referred to in section 48 shall have the effect of giving the Authority or the Board absolute title to any such coconut plantation specified in the Order with effect from the date specified therein and free from all encumbrances.

Absolute title to acquired coconut plantation.

50. Where any coconut plantation is acquired under the provisions of section 48, the provisions of sections 33, 34, 35, 41, 44, 45, 46, 47, 48, 49 and 50 of the Sri Lanka State Trading Corporations Act shall, *mutatis mutandis*, apply to such acquisition.

Provisions of Sri Lanka State Trading Corporations Act to apply.

PART V

MANAGEMENT AND ACQUISITION

Management of coconut plantation by Authority or Board.

45. The Minister may, by Order published in the Gazette, direct the Authority or any Board to manage any coconut plantation, where, in his opinion, such management is necessary to ensure the full and efficient use of such plantation. The Authority or the Board, when so directed, shall manage such plantation either through their own employees, officers and servants or through any person or body of persons (whether corporate or not) acting under their direction and control.

Expenses of management to be recovered from proprietor.

46. All the expenditure incurred by the Authority or the Board or by any person or body of persons acting on behalf of the Authority or the Board, in the management of any coconut plantation referred to in section 45, shall be recoverable by the Authority or the Board from the proprietor of such plantation, and the Authority or the Board shall also have a lien on the produce of such coconut plantation.

PART VI

GENERAL

51. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

Regulations.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1) the Minister may make regulations in respect of all or any of the following matters:—

- (a) the regulation, control, supervision, direction, management and inspection of—
 - (i) the cultivation and methods of cultivation of prescribed coconut plantations,
 - (ii) with the concurrence of the Minister in charge of the subject of Lands, the utilization of land in prescribed coconut plantations, including the utilization for other crops and for animal husbandry,

- (iii) the cultivation of prescribed land with coconut,
 - (iv) with the concurrence of the Minister in charge of the subject of Trade, the manufacture, packing, storing, transport and sale of any coconut product,
 - (v) with the concurrence of the Minister in charge of the subject of Trade, the purchase, sale, transport, storing, import and export of any coconut product;
- (b) prescribing standards of quality to which all manufacturers or shippers of a specified coconut product shall conform;
- (c) prescribing the manner in which all manufacturers of a specified coconut product shall dispose of effluent and waste;
- (d) the inspection, supervision, regulation and control of factories, stores, yards, buildings, premises, equipment and machinery used or to be used for the manufacture, packing or storing of any coconut product;
- (e) prescribing the methods, techniques, processes and equipment that shall be used by all manufacturers of a specified coconut product;
- (f) the regulation of the price at which any dealer, manufacturer, importer or shipper shall buy and sell any coconut product;
- (g) the prohibition of the manufacture or shipment of any coconut product except by a manufacturer or shipper registered under section 23 (1) (a) of this Act;
- (h) the prohibition of the export of any coconut product except upon a licence issued under section 23 (1) (h) of this Act;
- (i) the disposal of the assets and liabilities of any Board established under this Act;
 - (j) the cultivation of land with coconut, and the cultivation and utilization of land in any coconut plantation, on a collective basis ;
 - (k) the assigning, to any Board or the Authority constituted under this Act, of the function and power of enforcing any one or more, or any part, of the regulations made under this section;
 - (l) all matters which are required by this Act to be prescribed, or in respect of which regulations are required to be made;
 - (m) all matters incidental to or connected with the matters referred to in this subsection.
- (3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication, or on such later date as may be specified therein.
- (4) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.
- (5) Any person who contravenes or attempts to contravene the provisions of any regulation made under this Act and approved by Parliament shall be guilty of an offence under this Act.
- 52.** (1) The Minister may, subject to the provisions of subsection (2) and subsection (3), by Order published in the Gazette, transfer to the Board or to the Authority—
- (a) any movable or immovable property of the State required for the purposes of the Board or the Authority, and

Transfer of State property and certain contracts and liabilities to the Board or to the Authority.

(b) any contracts and liabilities of the State connected with such purposes.

(2) No movable property, and no contract or liability, of the State shall be transferred to the Board or to the Authority under subsection (1) without the concurrence of the Minister in charge of the subject of Finance.

(3) No immovable property of the State shall be transferred to the Board or to the Authority under subsection (1) without the concurrence of the Minister in charge of the subject of Finance and the Minister in charge of the subject of State Lands.

(4) Upon the publication of an Order under subsection (1) in the Gazette—

(a) the properties specified in that Order shall vest in and be the properties of the Board or of the Authority, as the case may be ;

(b) the contracts specified in that Order shall be deemed to be the contracts of the Board or of the Authority, as the case may be, and all subsisting rights and obligations of the State under such contracts shall be deemed to be the rights and obligations of the Board or of the Authority, as the case may be ; and

(c) the liabilities specified in that Order shall be deemed to be the liabilities of the Board or of the Authority, as the case may be.

Power to acquire land compulsorily.

53. The Minister may by Order published in the Gazette approve of the proposed acquisition of any land, or any interest in any land, other than State land, for any purpose of the Board or of the Authority, and where such an Order is so published, the land or the interest in any land specified shall be deemed to be required for a public purpose and may be acquired under the Land Acquisition Act, and when so acquired, shall be transferred to the Board or to the Authority, as the case may be, under that Act.

54. (1) At the request of the Board or the Authority, any officer in the public service may, with the consent of that officer and of the Secretary to the Ministry charged with the subject of Public Administration be temporarily appointed to the staff of the Board or the Authority, for such period as may be determined by the Board or the Authority respectively with like consent or be permanently appointed to such staff.

Appointment of public officers to the staff of the Board or of the Authority.

(2) Where any officer in the public service is temporarily appointed to the staff of the Board or the Authority, the provisions of subsection (2) of section 44 of the Industrial Development Act shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Board or the Authority, the provisions of subsection (3) of section 44 of the Industrial Development Act shall, *mutatis mutandis*, apply to and in relation to him.

(4) Where the Board or the Authority employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Board or the Authority by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

55. (1) No suit or prosecution shall lie—

Protection for action taken under this Act or on the direction of the Board or the Authority.

(a) against the Board or the Authority for any act which in good faith is done or purported to be done by the Board or the Authority under this Act; or

(b) against any member, officer, servant or agent of the Board or the Authority for any act which in good faith is done or purported to be done by him under this Act or on the direction of the Board or the Authority.

(2) Any expense incurred by the Board or the Authority in any suit or prosecution brought by or against the Board or the

Authority before any court shall be paid out of the funds of the Board or the Authority respectively, and any costs paid to, or recovered by, the Board or the Authority in any such suit or prosecution shall be credited to the funds of the Board or the Authority respectively.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Board or the Authority shall, if the court holds that such act was done in good faith, be paid out of the funds of the Board or the Authority respectively, unless such expense has been advanced to such person by the Authority or the Board or such expense is recovered by him in such a suit or prosecution.

56. No writ against person or property shall be issued against a member of the Board or the Authority in any action brought against the Board or the Authority.

57. Every person who commits an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding six months, or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

58. (1) On and after such date as the Minister may fix by Notification published in the Gazette the Board shall take over and carry on the business or any part of the business of any one or more of the following Boards—

- (a) the Ceylon Coconut Board established under the Coconut Products Ordinance,
- (b) the Coconut Research Board established under the Coconut Research Ordinance, and
- (c) the Coconut Fibre Board established under the Coconut Fibre Act.

(2) Every employee of each of the said Boards the business of which is taken over

in terms of subsection (1), who loses employment as a consequence of such taking over, shall be offered employment in any one or other, as determined by the Authority, of the Boards established under this Act upon terms and conditions not less favourable than those enjoyed by such employee before the taking over.

(3) Regulations may be made in respect of any unforeseen or special circumstances, or for determining or adjusting any question or matter that may directly or indirectly arise, in connexion with the carrying out of the provisions of subsection (1) and subsection (2).

59. Notwithstanding the provisions of any other Act, the Boards referred to in paragraphs (a), (b) and (c) of subsection (1) of section 58 shall, in the exercise, discharge and performance of their powers and functions, be subject to direction and control by the Authority.

60. If in the operation of this Act, any case shall arise in which, in the opinion of the Minister, substantial hardship is likely to be caused to any person by reason of an unintentional failure on the part of such person to observe any formality prescribed by this Act or by any regulations made thereunder, the Minister may give such directions as may be necessary to mitigate or prevent such hardship.

61. The provisions of this Act shall have effect notwithstanding anything contained in any other written law and accordingly, in the event of any conflict or inconsistency between the provisions of this Act and such other written law, the provisions of this Act shall prevail.

62. In this Act unless the context otherwise requires—

" coconut plantation " means any land on which the coconut palm is grown, and includes any interest in or any benefit arising out of such land and any leasehold or other interest held by any person in any State land and also any buildings, fixtures, machinery and implements thereon;

No writ to issue against person or property of a member of the Board or the Authority.

Offences.

Board to take over business of other Boards.

Boards which are subject to direction and control of the Authority.

Minister's power to mitigate hardship.

This Act to have precedence over other written law.

Interpretation.

" coconut product" means any part or product of the coconut palm, or any product, by-product or waste product obtained by processing any part or product of the coconut palm;

" dealer " means a dealer in coconut products;

" management" with its grammatical variations and cognate expressions includes cultivation, replantation, fertilization, soil conservation, inter-cropping, animal husbandry and manufacture, processing, sale and disposal of produce ;

" member " means a member of the Board or of the Authority, as the case may be;

" miller" means a manufacturer of desiccated coconut, coconut oil, or coconut fibre;

" proprietor " means the owner, lessee or usufructuary mortgagee of a coconut plantation and includes the local agent of an owner who is absent from Sri Lanka;

" public officer " has the same meaning as in the Constitution;

" purchase" includes a purchase by sample or grade and a purchase for immediate or future receipt;

" sale " includes a sale by sample or grade and a sale for immediate or future delivery;

" shipper " means a person who exports coconut products from Sri Lanka or obtains shipping facilities to enable another person so to export coconut products.

63. Any reference in sections 20, 22, 23, 30, 44, 45, 46. 48, 49. 50, 51 and 62 to coconut, shall unless the context otherwise requires, be construed as including a reference to palmyrah and to such other palms as may be specified by the Minister by Order published in the Gazette, and the expressions " coconut product ", " coconut plantation", " coconut palm", and " coconut industry", occurring in these sections shall be construed accordingly.

Reference to coconut to be construed as including reference to palmyrah, and certain other palms. [§2, Law 24 of 1975.]

CHAPTER 555

CONTAGIOUS DISEASES

Ordinances AN ORDINANCE TO PROVIDE AGAINST THE INTRODUCTION AND SPREAD OF CONTAGIOUS
 Nos. 8 of 1866, OR INFECTIOUS DISEASES.
 3 of 1946.

[13th November, 1866.]

Short title. **1.** This Ordinance may be cited as the Contagious Diseases Ordinance.

Board of Health within each province. **2.** For the purposes of this Ordinance, it shall be lawful for the Minister, from time to time, to appoint within each province two or more persons to form the Board of Health in such province, and, if need be, to remove such persons, or any of the them, and to appoint others in their place :

Provided that if any town in such province shall have been heretofore, or shall be hereafter, created a Municipality, the Municipal Council of such town shall form the Board of Health thereof, and shall exercise the powers and shall be subject to the obligations vested in Boards of Health by this Ordinance, by the Nuisances Ordinance and by any other enactment now in force or to be hereafter enacted.

Cases of smallpox or cholera, &c.. to be reported. **3.** Every householder residing in Sri Lanka shall be bound to report, with the least possible delay, to the Superintendent of Police, or to some inspector of police, or to some police constable or grama seva niladhari of his town or village, every case occurring in the house in which he resides of smallpox, cholera or other disease which may, from time to time, be named by the Minister in an Order to be by him for that purpose issued, and any householder neglecting to make such report shall be liable on conviction thereof to a fine not exceeding twenty rupees; and every inspector of police, police constable, or grama seva niladhari to whom any such case shall be reported by such householder, or by any other person, or who shall know of the existence of any such case within such town or village, shall forthwith report the same to the Superintendent of Police or to some Magistrate within the district in which such town or village is situated.

4. The medical attendant of any person attacked with smallpox, cholera, or other disease as aforesaid shall be bound to report the same with all convenient despatch to the Superintendent of Police of the town, or to some inspector of police, or to some police constable or grama seva niladhari of the town or village in which such person resides, unless such medical attendant has credible information that such case has already been reported; and any medical man neglecting to make such report, he not having received credible information that the case has been already reported, sha]] be liable on conviction thereof to a fine not exceeding fifty rupees.

Medical man to report such cases if not already reported.

5. The Superintendent of Police of the town or place, or any Magistrate within the district in which any case of smallpox occurs, shall be entitled, if he shall see occasion, to place or cause to be placed on the wall or door of the house or building in which such disease exists any mark which he may think advisable for the purpose of denoting the existence of the disease, and to keep such mark affixed for such time as he may deem necessary; and any person removing or obliterating any such mark without the authority of such Superintendent of Police or Magistrate, shall on conviction thereof be liable to a fine not exceeding fifty rupees.

Houses infected with smallpox may be marked.

Penalty for removing mark.

6. It shall be lawful for the Superintendent of Police of the town or place, or for any Magistrate within the district in which any case of smallpox, cholera, or other disease as aforesaid occurs, upon the application of the head of a family or of the owner or occupier of the house in which such case occurs, to make an order in writing for the removal of the person

On application of the head of a family, an affected person may be removed to hospital.

affected with the disease (in such manner and with such precautions as he shall deem necessary) to some public hospital or place provided by Government for the reception of persons so affected, and for the detention of such person therein under proper medical care. for such time as the medical officer in charge of such hospital or place shall deem necessary; and any person resisting or preventing the removal of any other person for whose removal an order has been given on such application as aforesaid, shall on conviction thereof be liable to a fine not exceeding fifty rupees.

Penalty on person resisting removal.

Persons going about whilst the smallpox is upon them may be taken to the hospital.

7. It shall be lawful for any inspector of police, police constable, or grama seva niladhari of any town or village, forthwith to take and remove to the nearest hospital or place provided by Government for the reception of smallpox patients any person who shall be found in any street, thoroughfare, or public place in any such town or village whilst the smallpox disease is upon such person.

Penalty on persons affected with smallpox wilfully going abroad.

8. Any person affected with smallpox, and who knowing himself to be so affected shall wilfully go abroad into any street, thoroughfare, or public place, and any person who shall wilfully expose or take any

child or other person affected with smallpox, knowing such child or person to be so affected, in or to any street, thoroughfare, or public place, shall on conviction thereof be liable to a fine not exceeding fifty rupees.

9. The licence required by section 5 of the Nuisances Ordinance shall be issued by the Board of Health of the province, and not by the Assistant Commissioner of Local Government, as is therein required, but if any town within such province shall have a Municipality the said licence shall be issued by the Municipal Council of such town :

Licence required by the Nuisances Ordinance to be issued by Board of Health.

Provided that the sum payable on account of such licence shall be carried to the credit of the Consolidated Fund, except, where there is a Municipality, when it shall be received by the Municipal Council and form part of its funds.

10. In any area in respect of which any Urban Council or Town Council is constituted this Ordinance shall not apply as from the date on which such Council shall be declared to be constituted by Order of the competent authority.

Ordinance not to apply within the limits of an Urban Council or Town Council.

CHAPTER 453

CEYLONESE EVANGELISTIC ASSOCIATION

Law
No. 46 of 1975,

A LAW TO INCORPORATE THE CEYLONESE EVANGELISTIC ASSOCIATION.

[5th December, 1975]

- | | | | |
|--|--|---|---|
| Short title. | 1. This Law may be cited as the Ceylonese Evangelistic Association (Incorporation) Law. | and dismiss personnel required for the carrying out of the objects of the Corporation. | |
| Incorporation of the Ceylonese Evangelistic Association. | 2. From and after the date of commencement of this Law, such and so many persons as now are members of the Ceylonese Evangelistic Association (hereinafter referred to as "the Association ") or shall hereafter be admitted members of the Corporation hereby constituted, shall be and become a Corporation with perpetual succession under the name and style of "The Ceylonese Evangelistic Association" (hereinafter referred to as "the Corporation ") and by that name shall and may sue and be sued in all Courts, with full power and authority to have and to use a common seal and change and alter the same at its will and pleasure. | 5. The affairs of the Corporation shall, subject to the rules for the time being in force, be managed by a Board of Administrators of the Corporation consisting of the President, the Vice-President, the Secretary, the Treasurer and one other member. | Management of the affairs of the Corporation. |
| General objects of the Corporation. | 3. The general objects of the Corporation shall be to proclaim the Gospel of Jesus Christ, both in Sri Lanka and abroad, by means of—

(a) holding evangelistic crusades,

(b) printing, publishing and distributing literature, magazines and newspapers, and

(c) conducting radio broadcasts and correspondence courses. | 6. (1) The rules of the Association in force on the date of commencement of this Law shall be the first rules of the Corporation.

(2) It shall be lawful for (he Corporation to amend or rescind all or any of the aforesaid rules or to add fresh rules thereto, at a general meeting of the Corporation by the votes of two-thirds of the members present and voting at such meeting. | Rules of the Corporation. |
| General powers of the Corporation. | 4. The Corporation shall have the power to do, perform and execute all such acts, matters and things whatsoever as are necessary or desirable for the promotion or furtherance of the objects of the Corporation or any one of them including the power to open, operate and close bank accounts, to borrow or raise moneys with or without security, and to engage, employ | 7. All members of the Corporation shall be subject to the rules of the Corporation for the time being in force.

8. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of the President and the Secretary, or in the absence of the Secretary, any other member of the Board of Administrators, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

9. The Corporation shall be capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, | Members to be subject to the rules.

How the seal of the Corporation is to be affixed.

Corporation may hold property, movable and immovable. |

testamentary disposition or otherwise, and all such property shall be held by the Corporation for the purposes of this Law and subject to the rules in force for the time being of the Corporation, with full power to sell, mortgage, lease, exchange, or otherwise dispose of the same.

10. Nothing in this Law contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Law and others claiming by, from, or under them.

Saving of the rights of the Republic and others.

CHAPTER 554

CENTRAL ENVIRONMENTAL AUTHORITY

Act No. 47 of 1980. AN ACT TO ESTABLISH A CENTRAL ENVIRONMENTAL AUTHORITY TO MAKE PROVISION WITH RESPECT TO THE POWERS, FUNCTIONS AND DUTIES OF THAT AUTHORITY; AND TO MAKE PROVISION FOR THE PROTECTION AND MANAGEMENT OF THE ENVIRONMENT AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Not in operation on 31st December, 1980.]

Short title and date of operation. **1.** This Act may be cited as the National Environmental Act, and shall come into operation on such date as the Minister may appoint by Order published in the Gazette.

(2) The President shall appoint one of such members to be the Chairman of the Authority.

4. (1) The seal of the Authority shall be in the custody of the Authority. *Seal of the Authority.*

PART I

ESTABLISHMENT OF THE CENTRAL ENVIRONMENTAL AUTHORITY AND AN ENVIRONMENTAL COUNCIL

Establishment of the Authority. **2.** (1) For the purposes of this Act there shall be established an Authority called the Central Environmental Authority.

(2) The seal of the Authority may be altered in such manner as may be determined by the Authority.

(3) The seal of the Authority shall not be affixed to any instrument or document except in the presence of two members of the Authority both of whom shall sign the instrument or document in token of their presence.

(2) The Central Environmental Authority established under subsection (1) (hereinafter referred to as "the Authority") shall consist of the persons who are for the time being members of the Authority under subsection (1) of section 3.

5. (1) The Authority shall have its own Fund. There shall be credited to the Fund of the Authority— *Fund of the Authority.*

(3) The Authority shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue or be sued in such name.

(a) all such sums of money as may be voted, from time to time, by Parliament for the use of the Authority ;

Members of the Authority. **3.** (1) The Authority shall consist of three members appointed by the President in consultation with the Minister—

(b) all such sums of money as may be received by the Authority in the exercise, discharge and performance of its powers, functions and duties; and

(a) two of whom shall have adequate expertise and qualifications in the subject of the environment; and

(b) one of whom shall have suitable administrative skill and experience in environmental management.

(c) all such sums of money as may be received by the Authority by way of loans, donations, gifts, or grants from any sources whatsoever, whether in or outside Sri Lanka.

(2) There shall be paid out of the Fund of the Authority all such sums of money required to defray any expenditure incurred by the Authority in the exercise, discharge and performance of its powers, functions and duties.

(3) The initial capital of the Authority shall be twenty million rupees. The amount of the initial capital shall be paid out of the Consolidated Fund in such instalments as the Minister in charge of the subject of Finance may in consultation with the Minister determine and such sums shall be credited to the Fund established under subsection (1).

6. (1) The financial year of the Authority shall be the calendar year.

(2) The Authority shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Authority.

(3) The Auditor-General shall audit the accounts of the Authority every year in accordance with Article 154 of the Constitution.

(4) The Authority shall annually prepare a report of the work of the Authority and forward such report to the Auditor-General who shall, together with his report table such reports in Parliament and such reports shall be published in the Gazette for general information before the lapse of the year succeeding the year to which such report of the finances relate.

7. (1) There shall be established the Environmental Council (hereinafter referred to as "the Council") which shall consist of the following members appointed by the Minister:—

- (a) a senior officer of the Ministry charged with the subject of Local Government nominated by the Minister in charge of that subject;
- (b) a senior officer of the Ministry charged with the subject of Finance nominated by the Minister in charge of that subject;
- (c) a senior officer of the Ministry charged with the subject of Plan

Implementation nominated by the Minister in charge of that subject;

- (d) a senior officer of the Ministry charged with the subject of Lands nominated by the Minister in charge of that subject;
- (e) a senior officer of the Ministry charged with the subject of Health nominated by the Minister in charge of that subject;
- (f) a senior officer of the Ministry charged with the subject of Industries nominated by the Minister in charge of that subject;
- (g) a senior officer of the Ministry charged with the subject of Transport nominated by the Minister in charge of that subject;
- (h) a senior officer of the Ministry charged with the subject of Power and Energy nominated by the Minister in charge of that subject;
- (i) a senior officer of the Ministry charged with the subject of Highways nominated by the Minister in charge of that subject;
- (j) a senior officer of the Ministry charged with the subject of Agriculture nominated by the Minister in charge of that subject;
- (k) a senior officer of the Ministry charged with the subject of Fisheries nominated by the Minister in charge of that subject;
- (l) a senior officer of the Ministry charged with the subject of Tourism nominated by the Minister in charge of that subject;
- (m) a senior officer of the Ministry charged with the subject of Labour nominated by the Minister in charge of that subject;
- (n) a senior officer of the Ministry charged with the subject of Textile Industry nominated by the Minister in charge of that subject;

Financial year and the audit of accounts of the Authority.

Environmental Council.

- (o) a senior officer of the Ministry charged with the subject of Plantation Industry nominated by the Minister in charge of that subject;
- (p) a senior officer of the Ministry charged with the subject of Foreign Affairs nominated by the Minister in charge of that subject;
- (q) a senior officer of the Ministry charged with the subject of Education nominated by the Minister in charge of that subject;
- (r) a senior officer nominated by the Minister in charge of the Greater Colombo Economic Commission established under the Greater Colombo Economic Commission Law;
- (s) the person holding office for the time being as the General Manager of the Authority; and
- (t) three members nominated by the Minister to represent the interests of voluntary agencies in the field of environment.

(2) The Minister shall appoint one of the members appointed under subsection (1) to be the Chairman of the Council.

(3) The functions of the Council shall be-

- (a) generally to advise the Authority on matters pertaining to its responsibilities, powers, duties and functions; and
- (b) to advise the Authority on any matters referred to the Council by the Authority.

8. (1) A person shall be disqualified from being appointed or from continuing as a member of the Authority or Council—

- (a) if he is, or becomes, a member of Parliament; or
- (b) if he is not, or ceases to be, a citizen of Sri Lanka.

(2) The persons appointed under sections 3 (1) and 7 (1) shall, subject to the provisions of subsections (4) and (5) of this section, as the case may be, hold office for a term of three years and shall be eligible for reappointment.

(3) (a) no member of the Authority shall be a member of the Council; and

(b) no member of the Council shall be a member of the Authority.

(4) The President in consultation with the Minister shall remove from office any member of the Authority—

- (a) if he becomes subject to any of the disqualifications set out in subsection (1); or
- (b) if he becomes permanently incapable of performing his duties owing to any physical disability or unsoundness of mind ; or
- (c) if he does any act which, in the opinion of the President, is likely to bring the Authority into disrepute.

(5) The Minister shall remove from office any member of the Council—

- (a) if he becomes subject to any of the disqualifications set out in subsection (1); or
- (b) if he becomes permanently incapable of performing his duties owing to any physical disability or unsoundness of mind ; or
- (c) if he does any act which in the opinion of the Minister is likely to bring the Council into disrepute:

Provided, however, that no member of the Council shall be removed from office, without the concurrence of the Minister who nominated such member.

(6) In the event of the vacation of office of the Chairman or any other member of the Authority from office under the provisions of this section the President in consultation with the Minister may appoint

Disquali-
fication of
members, &c.

another person to hold such office during the unexpired part of the term of office of the member whom he succeeds.

(7) In the event of the vacation of office of the Chairman or any other member of the Council from office under the provisions of this section the Minister may appoint another person to hold such office during the unexpired part of the term of office of the member whom he succeeds:

Provided, however, that no appointment shall be made under this subsection, without the concurrence of the Minister who nominated such member.

(8) If the Chairman or any member of the Authority is temporarily unable to discharge the duties of his office due to ill health or absence from Sri Lanka or for any other cause, the President in consultation with the Minister may appoint some other person to act in his place as Chairman or as member.

(9) If the Chairman or any member of the Council is temporarily unable to discharge the duties of his office due to ill health or absence from Sri Lanka or for any other cause the Minister may appoint some other person to act in his place as Chairman or as member:

Provided, however, that no such appointment shall be made without the concurrence of the Minister who nominated such member.

(10) The Chairman or any member of the Authority may at any time resign his office by letter in that behalf addressed to the President.

(11) The Chairman or any member of the Council may at any time resign his office by letter in that behalf addressed to the Minister.

(12) The Chairman or any member of the Authority, or the Chairman or any member of the Council may be paid such remuneration out of the Fund of the Authority as may be determined by the Minister.

(13) The Chairman of the Authority or Council shall, if present, preside at all meetings of the Authority, or Council, as the case may be. In the absence of the Chairman of the Authority or Council at any such meeting, the members present shall elect one of the members to preside at the meeting.

(14) (a) The quorum for any meeting of the Authority shall be two members.

(b) The quorum for any meeting of the Council shall be seven members.

(15) (a) The Authority or Council, as the case may be, may regulate the procedure in regard to the meetings of such Authority or Council and the transaction of business at such meetings.

(b) Meetings of the Authority shall be held at such times and places as the Authority determines.

(c) The Council shall meet at least four times each year at such times and places as are fixed by the Authority.

(16) The Authority shall, in the exercise, discharge and performance of its powers, functions and duties under this Act, be subject to such general or special directions as may, from time to time, be issued by the Minister.

(17) A member of the Authority shall not, except in special circumstances and with the consent in writing of the President in consultation with the Minister during his continuance in office, directly or indirectly engage in any paid employment outside the duties of his office.

(18) No act or proceeding of the Authority or Council shall be invalid by reason of the existence of a vacancy among their respective members or any defect in the appointment of a member.

9. (1) The Authority shall appoint a District Environmental Agency for each administrative district consisting of such members as the Authority may determine,

District
Environmental
Agency,

(2) The Government Agent of each administrative district shall be the Chairman of each District Environmental Agency.

(3) A District Environmental Agency shall exercise, discharge or perform any such powers, functions or duties of the Authority as may be delegated to such agency by the Authority.

(4) The members of a District Environmental Agency may be paid such remuneration as the Minister may in consultation with the Minister in charge of the subject of Finance, determine.

PART II

POWERS, FUNCTIONS AND DUTIES OF THE AUTHORITY

Powers, functions and duties of the Authority.

10. (1) The powers, functions and duties of the Authority shall be—

- (a) to administer the provisions of this Act and the regulations made thereunder;
- (b) to recommend to the Minister, national environmental policy and criteria for the protection of any portion of the environment with respect to the uses and values, whether tangible or intangible, to be protected, the quality to be maintained, the extent to which the discharge of wastes may be permitted without detriment to the quality of the environment and long range development uses and planning and any other factors relating to the protection and management of the environment;
- (c) to undertake surveys and investigations as to the causes, nature, extent and prevention of pollution and to assist and co-operate with other persons or bodies carrying out similar surveys or investigations;
- (d) to conduct, promote and co-ordinate research in relation to any aspect of the environmental degradation or the prevention thereof, and to

develop criteria for the protection and improvement of the environment;

- (e) to specify standards, norms and criteria for the protection of beneficial uses and for maintaining the quality of the environment;
- (f) to publish reports and information with respect to any aspects of environmental protection and management;
- (g) to undertake investigations and inspections to ensure compliance with this Act and to investigate complaints relating to non-compliance with any of its provisions;
- (h) to specify methods to be adopted in taking samples and making tests for the purposes of this Act;
- (i) to provide information and education to the public regarding the protection and improvement of the environment;
- (j) to establish and maintain liaison with other countries and international organizations with respect to environmental protection and management;
- (k) to report to the Minister upon matters concerning the protection and management of the environment and upon any amendments it thinks desirable in existing legislation concerning any portion of the environment, and upon any matters referred to it by the Minister;
- (l) to promote, encourage, co-ordinate and carry out long range planning in environmental protection and management;
- (m) to encourage, promote and give effect to methods of converting and utilizing residues.

(2) Before the end of the month of December of each year, the Authority shall submit to the Minister, a report of the work of the Authority and the Council during the previous financial year, and the Minister shall cause such report to be tabled before Parliament within fourteen days after its receipt or, if Parliament is not in session within fourteen days after the next meeting of Parliament.

Borrowing powers of the Authority.

11. The Authority may, with the consent of the Minister, or in accordance with the terms of any general authority given by him, borrow temporarily, by way of overdraft or otherwise, such sum as the Authority may require for meeting the obligations of the Authority in discharging its duties under this Act;

Provided that the aggregate of the amounts outstanding in respect of any temporary loans raised by the Authority under this subsection shall not at any time exceed such sum as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

Power to give directions to local authorities.

12. (1) The Authority may with the concurrence of the Minister, from time to time, give to any local authority in writing such directions whether special or general to do or cause to be done any act or thing which the Authority deems necessary for safeguarding and protecting the environment within the local limits of such local authority.

(2) Every local authority to which a direction has been given under subsection (1) shall comply with such direction.

PART III

STAFF OF THE AUTHORITY

General Manager, Secretary and staff of the Authority.

13. (1) There shall be a General Manager of the Authority appointed by the Minister, who shall be the chief executive officer of the Authority.

(2) The General Manager shall, subject to the general direction and control of the Chairman, be charged with the direction of the business of the Authority, the organization and execution of the powers,

functions and duties of the Authority and the administration and control of the employees of the Authority.

(3) The General Manager shall also function as Secretary to the Authority.

(4) The Secretary shall be entitled to be present and to speak at meetings, but shall not be entitled to vote at such meetings.

14. (1) The Authority may appoint such officers and servants as it considers necessary for the efficient exercise, discharge and performance of its powers, functions and duties.

Appointment of officers, servants and agents.

(2) The officers and servants of the Authority shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by such regulations as may be prescribed.

(3) At the request of the Authority any officer in the public service may, with the consent of that officer and the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority with like consent, or be permanently appointed to such staff.

(4) Where any officer in the public service is temporarily appointed to the staff of the Authority, the provisions of subsection (2) of section 13 of the Transport Board Law shall, *mutatis mutandis*, apply to and in relation to him.

(5) Where any officer in the public service is permanently appointed to the staff of the Authority, the provisions of subsection (3) of section 13 of the Transport Board Law shall, *mutatis mutandis*, apply to and in relation to him.

(6) Where the Authority employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service with the Authority by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

CENTRAL ENVIRONMENTAL AUTHORITY [Cap.554

(7) At the request of the Authority any member of the Local Government Service or any other officer or servant of any local authority may with the consent of such member, officer or servant and the Local Government Service Advisory Board or that local authority, as the case may be, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority with like consent or be permanently appointed to such staff on such terms and conditions including those relating to pension or provident fund rights as may be agreed upon by the Authority and the Local Government Service Advisory Board or that local authority.

(8) Where any person is temporarily appointed to the staff of the Authority in pursuance of the provisions of subsection (7), such person shall be subject to the same disciplinary control as any other member of such staff.

PART IV

ENVIRONMENTAL MANAGEMENT

Land use management.

15. The Authority in consultation with the Council shall, with the assistance of the Ministry charged with the subject of Lands, formulate and recommend to the Minister a land use scheme consistent with the following objects:—

- (a) to provide a rational, orderly and efficient system of the acquisition, utilization and disposition of land and its resources in order to derive therefrom maximum benefits ; and
- (b) to encourage the prudent use and conservation of land resources in order to prevent an imbalance between the needs of the nation and such resources.

Land Use Scheme.

16. The Land Use Scheme formulated under section 15 may include—

- (a) a scientifically adequate land inventory and classification system;
- (b) a determination of present land uses, the extent to which such land is utilized, underutilized or rendered idle or abandoned ;

- (c) a comprehensive and accurate determination of the adaptability of land for community development, agriculture, industry or commerce ;
- (d) identification of areas having important historic, cultural, or aesthetic value where uncontrolled development could result in irreparable damage;
- (e) a method for exercising control by the Government over the use of land in areas where environment control is deemed necessary ; and
- (f) a policy for influencing the location of new areas for the resettlement of persons and the methods for assuring appropriate controls over the use of land in and around such areas,

NATURAL RESOURCES

17. The Authority in consultation with the Council shall recommend to the Minister the basic policy on the management and conservation of the country's natural resources in order to obtain the optimum benefits therefrom and to preserve the same for future generations and the general measures through which such policy may be carried out effectively.

FISHERIES

18. The Authority in consultation with the Council shall, with the assistance of the Ministry charged with the subject of Fisheries, recommend to the Minister a system of rational exploitation of fisheries and aquatic resources within the territorial waters of Sri Lanka, or within its exclusive economic zone, or within its inland waters and shall encourage citizen participation therein to maintain and enhance the optimum and continuous productivity of such waters.

19. Measures for the rational exploitation of fisheries and other aquatic resources may include the regulation of the marketing of threatened species of fish or other aquatic life.

WILDLIFE

Management policy for wild life.

20. The Authority in consultation with the Council shall, with the assistance of the Ministry charged with the subject of Wildlife Conservation, recommend to the Minister a system of rational exploitation and conservation of wildlife resources and shall encourage citizen participation in such activities.

FORESTRY

Management policy for forestries.

21. The Authority in consultation with the Council shall, with the assistance of the Ministry charged with the subject of Forestry, recommend to the Minister a system of—

- (a) (i) rational exploitation of forest resources,
- (ii) regulation of the marketing of threatened forest resources,
- (iii) conservation of threatened species of flora, and the encouragement of citizen participation therewith to keep the country's forest resources at maximum productivity at all times;
- (b) promoting a continuing effort on reforestation, timber stand improvement, forest protection, land classification, forest occupancy management, industrial tree plantation, parks and wildlife management, multiple use forest, timber management and forest research.

SOIL CONSERVATION

Management policy on soil conservation.

22. The Authority in consultation with the Council shall, with the assistance of the Ministry charged with the subject of Soil Conservation, recommend soil conservation programmes including therein the identification and protection of critical watershed areas, encouragement of scientific farming technique, physical and biological means of soil conservation, and short term, and long term research and technology for effective soil conservation.

23. The Authority may undertake and promote continuing studies and research programmes on environmental management and shall, from time to time, determine priority areas of environmental research.

Environmental research.

PART V

GENERAL

24. (1) For the purpose of giving effect to the principles and objects of this Act, the Authority may, by notice in writing served on the occupier of any premises, require that occupier to furnish to the Authority within fourteen days or such longer period as is specified in the notice such information as to any manufacturing, industrial, or trade process carried on in such premises or as to any wastes discharged or likely to be discharged from the said premises as is specified in the notice.

Furnishing of information.

(2) The Authority shall treat all information furnished to it pursuant to any requirement made under subsection (1) with the strictest secrecy and shall not divulge such information to any person other than to a court, subject to subsection (3) for the purpose of any prosecution for an offence under this Act.

(3) Any information furnished or statement made to the Authority pursuant to any requirement made under subsection (1) shall not if the person furnishing the information of making the statement, objects, at the time of furnishing the information or statement, to doing so on the ground that it might tend to incriminate him, be admissible in evidence upon any proceedings against that person for an offence under this Act.

25. The Authority may appoint-

Analysts, &c.

- (a) analysts for making analysis of samples taken for the purposes of that Act; and
- (b) pollution control officers for inspection and evaluating the records of monitoring prescribed equipment and installations for detecting the presence, quantity nature of waste and their effects on the receiving portions of the environment.

Delegation of powers, duties and functions.

26. (1) Subject to subsection (5) the Authority may by order delegate any of its powers, duties and functions under this Act to any Government department or any local authority.

(2) Where the Authority has delegated any power to any Government department or to any local authority any officer of such Government department or local authority may exercise any of the powers which the General Manager would be able to exercise had he been exercising the power himself.

(3) Nothing in this section shall preclude the Authority from any responsibility to protect the environment and from administering the provisions of this Act.

(4) An order made under subsection (1) may be revoked or varied at any time by the Authority.

(5) An order under subsection (1) shall not be made by the Authority—

- (a) in respect of any local authority except with the concurrence of the Minister; and
- (b) in respect of any Government department except with the concurrence of the Minister in charge of such Government department.

Members, officers and servants of the Authority deemed to be public servants.

27. All members, officers and servants of the Authority shall be deemed to be public servants within the meaning of and for the purposes of the Penal Code.

The Authority deemed to be a scheduled institution within the meaning of the Bribery Act.

28. The Authority shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

This Act to prevail over other written law.

29. The provisions of this Act shall have effect notwithstanding anything to the contrary in the provisions of any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this Act and the provisions of such other written law, the provisions of this Act shall prevail over the provisions of such other written law.

30. (1) No suit or prosecution shall lie—

- (a) against the Authority, for any act which in good faith is done or purported to be done by the Authority under this Act;
- (b) against the members of the Authority, Council or District Environmental Agency or any officer or servant of the Authority for any act which in good faith is done or purported to be done under this Act, or on the direction of the Authority.

Protection for action taken under this Act or on the direction of the Authority.

(2) Any expense incurred by the Authority in any suit or prosecution brought by or against the Authority before any court shall be paid out of the Fund of the Authority and any costs paid to, or recovered by, the Authority in any such suit or prosecution shall be credited to the Fund of the Authority.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Authority shall, if the court holds that such act was done in good faith, be paid out of the Fund of the Authority, unless such expense is recovered by him in such suit or prosecution.

31. Every person who contravenes or fails to comply with any provision of this Act or of any regulation made thereunder shall be guilty of an offence and shall on conviction before a Magistrate be liable to imprisonment of either description for a term not exceeding two years or to a fine not exceeding one thousand five hundred rupees or to both such imprisonment and fine.

Offences.

32. (1) The Minister may make regulations in respect of all matters which are stated or required by this Act to be prescribed or for which regulations are required by this Act to be made.

Regulations.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or upon such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder. Notification of the date on which any regulation is deemed to be rescinded shall be published in the Gazette.

Interpretation. **33.** In this Act unless the context otherwise requires—

"beneficial use" means a use of the environment or any portion of the environment that is conducive to public benefit, welfare, safety, or health and which requires protection from the effects of waste, discharges, emissions and deposits;

"environment" means the physical factors of the surroundings of human beings including the land, soil, water, atmosphere, climate, sound, odours, tastes and the biological factors of animals and plants of every description;

"exclusive economic zone" means the zone declared to be the exclusive economic zone, by proclamation made under section 5 of the Maritime Zones Law;

"land" includes messuages, buildings and any easements relating thereto ;

"local authority" means any Municipal Council, Urban Council, Town Council or Village Council and includes any Authority created and established by or under any law to exercise, perform and discharge powers, duties, and functions corresponding or similar to the powers, duties and functions exercised, performed and discharged by any such Council;

"pollution" means any direct or indirect alteration of the physical, thermal, chemical, biological, or radioactive properties of any part of the environment by the discharge, emission, or the deposit of wastes so as to affect any beneficial use adversely or to cause a condition which is hazardous or potentially hazardous to public health, safety, or welfare, or to animals, birds, wildlife, aquatic life, or to plants of every description;

"prescribed" means prescribed by regulations;

"territorial waters" includes the territorial sea and the historic waters of Sri Lanka; and

"waste" includes any matter prescribed to be waste and any matter, whether liquid, solid, gaseous, or radioactive, which is discharged, emitted, or deposited in the environment in such volume, constituency or manner as to cause an alteration of the environment.

CHAPTER 538

CEYLON ELECTRICITY BOARD

Acts
Nos.17 of 1969,
31 of 1969,
29 of 1979.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF AN ELECTRICITY BOARD FOR THE DEVELOPMENT AND CO-ORDINATION OF THE GENERATION, SUPPLY AND DISTRIBUTION OF ELECTRICAL ENERGY ; FOR THE TRANSFER TO SUCH BOARD OF THE GOVERNMENT ELECTRICAL UNDERTAKINGS, AND, IN CERTAIN CIRCUMSTANCES, OF THE ELECTRICAL UNDERTAKINGS OF LOCAL AUTHORITIES; FOR THE EMPLOYMENT BY THE BOARD OF EMPLOYEES OF THE DEPARTMENT OF GOVERNMENT ELECTRICAL UNDERTAKINGS; FOR THE ENTERING INTO JOINT SCHEMES BY SUCH BOARD WITH ANY GOVERNMENT DEPARTMENT OR APPROVED BODY FOR THE GENERATION OF ELECTRICAL ENERGY, THE IRRIGATION OF LANDS, THE CONTROL OF FLOODS OR OTHER LIKE OBJECTS; AND TO MAKE PROVISION FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[15th July, 1969.]

Short title. **1.** This Act may be cited as the Ceylon Electricity Board Act.

(c) one member appointed by the Minister, in consultation with the Minister in charge of the subject of Industries, to represent the field of industry, and

PART I

CONSTITUTION, POWERS AND DUTIES OF THE CEYLON ELECTRICITY BOARD

Establishment of the Ceylon Electricity Board.

2. (1) There shall be established a Board which shall be called the Ceylon Electricity Board, hereinafter referred to as " the Board ".

(d) one member being an officer of the General Treasury nominated by the Minister in charge of the subject of Finance.

(2) A person shall be disqualified for being appointed or continuing as a member of the Board if he is a Member of Parliament.

(2) The Board shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

Members of the Board.

3. (1) The Board shall consist of—

(a) four members appointed by the Minister from persons who appear to the Minister to have had experience and shown capacity in engineering, commerce, administration or accountancy,

(b) one member appointed by the Minister, in consultation with the Minister in charge of the subject of Local Government, to represent local authorities,

(3) Before appointing a person to be a member of the Board, the Minister shall satisfy himself that such person has no such financial or other interest as is likely to affect prejudicially the discharge by such person of his functions as a member of the Board, and the Minister shall satisfy himself, from time to time, with respect to every member of the Board appointed by the Minister, that such member has no such interest. Any person who is appointed by the Minister, or whom the Minister proposes to appoint, as a member of the Board shall, whenever requested by the Minister so to do, furnish to the Minister such information as the Minister considers necessary for the performance of his duties under this subsection.

(4) A member of the Board who is in any way directly or indirectly interested in any contract made or proposed to be made by the Board shall disclose the nature of his interest at a meeting of the Board and such disclosure shall be recorded in the minutes of the Board and the member shall not take part in any deliberation or decision of the Board with respect to that contract.

(5) Subject to the provisions of subsections (6) and (7) every member of the Board, other than the member nominated by the Minister in charge of the subject of Finance, shall—

(a) hold office for a period of five years, and

(b) be eligible for reappointment:

Provided that a member appointed by the Minister to fill a vacancy in the office of a member of the Board, other than any such vacancy as shall have occurred by virtue of the operation of subsection (6), shall, subject to the provisions of subsection (7), hold office for the unexpired portion of the term of office of the member whom he succeeds.

(6) The term of office of three of the six members of the Board first appointed by the Minister shall terminate at the expiry of a period of three years from the date of appointment; and, for the purpose of securing compliance with the preceding provisions of this subsection, the Board shall at its first meeting under this Act determine by lot the three members appointed by the Minister whose term of office shall so terminate.

(7) Where in the interests of the efficient performance of the functions or the discharge of the duties of the Board, it is considered necessary to do so,—

(a) any member of the Board, appointed under paragraph (a) of subsection (1), may be removed by the Minister,

(b) any member appointed under paragraph (b) of subsection (1) may be removed by the Minister in

consultation with the Minister in charge of the subject of Local Government,

(c) any member appointed under paragraph (c) of subsection (1) may be removed by the Minister in consultation with the Minister in charge of the subject of Industries, and

(d) any member nominated by the Minister in charge of the subject of Finance may be removed by the Minister in charge of the subject of Finance.

(8) The removal of any member of the Board from office under subsection (7) shall not be called in question in any court.

(9) A member of the Board who is not a public officer may resign from the Board by letter addressed to the Minister.

(10) Where a member of the Board becomes, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, then, if he is a member appointed by the Minister, the Minister may appoint any fit person to act in his place, and, if he is the member nominated by the Minister in charge of the subject of Finance, that Minister may nominate another officer of the General Treasury to act in his place.

(11) All or any of the members of the Board may be paid such remuneration from the funds of the Board and shall be subject to such conditions of service, as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(12) (a) The Chairman of the Board shall preside at every meeting of the Board at which he is present. In the absence of the Chairman from any meeting of the Board, the Vice-Chairman shall preside at such meeting, and in the absence of both the Chairman and the Vice-Chairman, a member chosen by the majority of the members present shall preside at such meeting.

(b) The Chairman or Vice-Chairman or other member of the Board, as the case may be, who presides at any meeting of the Board shall have, in addition to his own vote, a casting vote.

(13) The quorum for any meeting of the Board shall be three members of the Board, and, subject as aforesaid, the Board may regulate its own procedure.

4. The Board may act notwithstanding a vacancy among the members thereof.

5. (1) The Board shall, with the approval of the Minister, appoint a competent and experienced person as General Manager of the Board.

(2) The General Manager shall, subject to the general direction of the Board on matters of policy, be charged with the direction of the business of the Board, the organization and execution of the powers, functions and duties of the Board, and the administrative control of the employees of the Board.

(3) The General Manager may, with the approval of the Board, delegate to any other employee of the Board such of his powers, functions or duties as he may, from time to time, consider necessary, and any employee to whom any such powers, functions or duties are so delegated shall exercise them subject to the general or special directions of the General Manager.

(4) The General Manager shall retire from office on reaching the age of sixty years:

Provided, however, that his term of office may be extended thereafter by the Board with the prior approval of the Minister.

(5) The General Manager may not be removed from office except for good and sufficient cause and without the prior approval of the Minister.

6. (1) The Minister shall appoint a Chairman, and may appoint a Vice-Chairman, of the Board from the members of the Board.

(2) If the Chairman or the Vice-Chairman is, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint one of the members of the Board to act in his place.

(3) The Minister may, without assigning a reason, terminate the appointment of the Chairman, or the Vice-Chairman, of the Board. The termination of the appointment of the Chairman, or the Vice-Chairman, of the Board shall not be called in question in any court.

(4) Where the Chairman, or the Vice-Chairman, of the Board is not a public officer, he may resign the office of such Chairman or Vice-Chairman by letter addressed to the Minister.

(5) Subject to the provisions of subsections (3) and (4), the term of office of the Chairman of the Board shall be the period of his membership of the Board, and the term of office of the Vice-Chairman of the Board shall be the period of his membership of the Board.

7. (1) The seal of the Board shall be in the custody of the Board.

Seal of the Board.

(2) The seal of the Board may be altered in such manner as may be determined by the Board.

(3) The seal of the Board shall not be affixed to any instrument or document except in the presence of two members of the Board both of whom shall sign the instrument in token of their presence.

8. (1) The Minister may, after consultation with the Board, give to the Board in writing general or special directions as to the performance of the duties and the exercise of the powers of the Board in relation to matters which appear to him to affect the national interest, and the Board shall give effect to such directions.

Powers of the Minister in relation to the Board.

(2) The Minister may, from time to time, direct the Board in writing to furnish to him in such form as he may require,

Board may act despite vacancy.

General Manager of the Board, his powers and duties and their delegation.

Chairman and Vice-Chairman of the Board.

returns, accounts and other information with respect to the property and business of the Board, and the Board shall carry out every such direction.

(3) The Minister may order all or any of the activities of the Board to be investigated and reported upon by such person or persons as he may specify and upon such order being made, the Board shall afford all such facilities and furnish all such information as may be necessary to carry out such order.

Officers and servants of Board deemed to be public servants.

9. All officers and servants of the Board shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Board deemed to be a scheduled institution within the meaning of Bribery Act.

10. The Board shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

Duties of the Board.

11. (1) It shall be the duty of the Board, with effect from the date of the transfer to the Board of the Government Electrical Undertakings under section 18, to develop and maintain an efficient, co-ordinated and economical system of electricity supply for the whole of Sri Lanka.

(2) For the purpose referred to in subsection (1), it shall be the duty of the Board—

- (a) to take over and carry on the Government Electrical Undertakings with effect from the date of the transfer to the Board of such Undertakings;
- (b) to take over and carry on any electrical undertakings transferred to the Board under section 26 ;
- (c) to generate or acquire supplies of electricity;
- (d) to construct, maintain and operate the necessary works for the generation of electricity by all means;
- (e) to construct, maintain and operate the necessary works for the inter-connection of generating stations

and sub-stations and for the transmission of electricity in bulk from generating stations and sub-stations to such places as may be necessary from time to time;

- (f) to distribute and sell electricity in bulk or otherwise ; and
- (g) to develop a sound, adequate and uniform electricity policy, and, for that purpose, to control and utilize national power resources.

(3) Nothing in this section shall be construed as imposing on the Board, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court or tribunal to which the Board will not otherwise be subject.

12. The Board may exercise all or any of Powers of the following powers:— the Board.

- (a) to purchase electrical energy in bulk;
- (b) to carry out investigations and to collect and record data concerning the generation, distribution and utilization of power, and the development of power resources ;
- (c) to maintain shops and showrooms for the display, sale, or hire of electrical equipment, and to conduct displays, exhibitions and demonstrations thereof, and generally to do all things incidental to such sale and hire and for the promotion and encouragement of the use of electricity ;
- (d) to promote the standardization of the system of supply of all types of electrical fittings and equipments;
- (e) to acquire, hold, take or give on lease or hire, mortgage, pledge or sell or otherwise dispose of, any immovable or movable property;
- (f) to enter into and perform, either directly or through duly authorized agents, all such contracts as may be necessary for the performance of the duties and the exercise of the powers of the Board ;

- (g) to do anything necessary for the purpose of advancing the skill of persons employed by the Board or the efficiency of the equipment of the Board, or for improving the manner in which that equipment is operated;
- (h) to conduct research into matters affecting the generation, distribution, transmission, supply and use of electricity;
- (i) to provide facilities for training persons required to carry out the work of the Board, including the arrangement by the Board with any body or agency for such facilities ;
- (j) to establish provident funds and pension funds, and to provide welfare and recreational facilities, houses, hostels and other like accommodation, for the persons employed by the Board ;
- (k) subject to the provisions of section 5 and of Part III of this Act, to make rules in relation to the officers and servants of the Board, including their appointment, promotion, remuneration, disciplinary control, conduct and the grant of leave to them;
- (l) to enter into joint schemes with any Government Department or any body approved by the Minister, for the generation of electrical energy, the irrigation of lands, the control of floods or other like purposes;
- (m) to make rules in respect of the administration of the affairs of the Board; and
- (n) to do all other things which, in the opinion of the Board, are necessary to facilitate the proper carrying on of its business.

the Board and pay them such remuneration as it thinks proper.

14. It shall be the duty of the Board and the Board shall have the power to supervise and control the design, construction and operation of all electrical generating stations, high voltage transmission lines, switching stations and other electrical installations installed for the purpose of any joint scheme entered into by the Board under the provisions of paragraph (l) of section 12 with any Government Department or any body approved by the Minister:

Power of the Board to supervise and control generating stations installed for joint schemes.

Provided, however, that in the exercise of such supervision and control, the Board shall have due regard to the needs of such Department or body,

15. Where any dispute arises between the Board and any Government Department or body referred to in section 14 in connexion with the exercise of the powers of the Board under that section, such dispute shall be referred to the Minister, and the decision of the Minister thereon shall be final.

Disputes arising from exercise of powers of Board under section 14.

16. No person or body other than the Board shall, except with the written permission of the Board given with the approval of the Minister, undertake the transmission of high voltage electrical energy in bulk from one place to another in Sri Lanka.

Board to undertake exclusively transmission of high voltage electrical energy in bulk.

PART II

TRANSFER TO THE BOARD OF THE GOVERNMENT ELECTRICAL UNDERTAKINGS AND OTHER ELECTRICAL UNDERTAKINGS

***18.** (1) As soon as may be convenient after the coming into operation of this Act, the Minister shall, by Order, transfer the Government Electrical Undertakings to the Board, and may, subject to the provisions of

Transfer to the Board of the Government Electrical Undertakings.

Consulting engineers.

13. The Board may, from time to time, appoint persons who are qualified as engineers to be, or to act as, consultants to

* Proviso to section 16, referring to the repealed Anuradhapura Preservation Board, and section 17 are omitted. Amendments effected to the Electricity Act by section 17, read with the Schedule to this Act, are incorporated in the Electricity Act.

f 1st November, 1969—transfer of Government Electrical Undertakings to Electricity Board—vide Gazette Extraordinary No. 14,868/5 of 1969-08-29 and Gazette Extraordinary No. 14,871/9 of 1969-09-14.

subsection (4) of this section and the provisions of section 39, by the same Order or by a subsequent Order* provide—

- (a) for the transfer to, and the vesting in, the Board of any movable or immovable property of the State required for the purposes of the Board;
- (b) for the transfer to the Board of all or any rights, obligations and liabilities relating to or connected with such Undertakings and for the adaptation or modification of contracts or other instruments for the purpose of giving effect to the transfer of such rights, obligations and liabilities to the Board ;
- (c) for the adaptation or modification of any written law to such extent as may be necessary for the purpose of enabling the Board to carry on such Undertakings in lieu of the Government;

for such financial adjustments between the Government and the Board as may be necessary in consequence of any such transfer; and

- (e) for any other matter supplementary to or consequential on the matters aforesaid including the continuation of legal proceedings.

(2) Subject to the provisions of subsection (3) the provisions of any Order made by the Minister under subsection (1) may be amended or varied by him, from time to time, by a subsequent Order.

(3) No Order shall be made by the Minister under subsection (1) or subsection (2)-

- (a) affecting any immovable property of the State without the concurrence of the Minister to whom the subject of State lands is for the time being assigned ; or

- (b) affecting any matter referred to in paragraph (d) of subsection (1) without the prior concurrence of the Minister in charge of the subject of Finance.

(4) Subject to the provisions of subsection (5), every Order made by the Minister under this section shall be brought before the Senate and the House of Representatives or before Parliament, as the case may be, by a motion that such Order be approved. Where such Order is approved, notification of such Order shall be published in the Gazette. Every such Order shall come into force on the date of the publication of such notification of approval or on such later date as may be specified in the Order. Every such Order shall, on its coming into force as hereinbefore provided, be as valid and effectual as if it were herein enacted.

(5) The first Order made under this section after the coming into operation of this Act, shall be published in the Gazette, and shall have effect from the date of such publication or from such later date as may be specified in the Order.

19. (1) With effect from the date of the transfer to the Board of the Government Electrical Undertakings, no licence shall be granted under the Electricity Act except in consultation with the Board.

Licences under the Electricity Act to be granted in consultation with Board.

(2) The preceding provisions of this section shall have effect notwithstanding anything to the contrary in the Electricity Act.

20. (1) Subject to the provisions of subsection (2), the Board and any local authority who is a licensee within the meaning of the Electricity Act may, of their own motion, jointly prepare a transfer scheme, hereinafter in this Act referred to as a "voluntary transfer scheme", for the transfer to the Board of the electrical undertakings carried on by such authority in its capacity as such licensee.

Voluntary transfer scheme.

(2) The Board shall refer to arbitration through the Minister, as hereinafter provided, any dispute between the Board

* Movable and immovable property etc., vested in the Board with effect from 31st October, 1969 — vide Gazette Extraordinary No. 14,868/5 of 1969-08-29 and Gazette Extraordinary No. 14,871/9 of 1969-09-14.

and the local authority upon any matter or question in connexion with the preparation of a voluntary transfer scheme. In such preparation the Board and the local authority shall have regard to and be bound by the decision given upon any dispute so referred to arbitration.

21. The Board shall, whenever it is directed so to do by the Minister under section 22, prepare a transfer scheme, hereinafter in this Act referred to as a "compulsory transfer scheme", for the compulsory transfer to the Board of the electrical undertakings carried on by a local authority in its capacity as a licensee under the Electricity Act.

22. Where, as respects the electrical undertakings carried on by a local authority in its capacity as a licensee within the meaning of the Electricity Act, the Minister is satisfied, after consultation with the Minister in charge of the subject of Local Government and after such inquiry as he may deem necessary, at which such local authority and the Board shall be given an opportunity of being heard,—

- (a) that such authority has been guilty of neglect, default or mismanagement in carrying on such undertakings, or
- (b) that such authority has defaulted in the payment of the charges for the supply of electricity by the Board,

the Minister may, with the concurrence of the Minister in charge of the subject of Local Government, issue a written direction to the Board to prepare a compulsory transfer scheme for the transfer to the Board of such undertakings.

23. (1) A transfer scheme prepared under this Act in respect of the electrical undertakings carried on by a local authority in its capacity as a licensee within the meaning of the Electricity Act shall provide for the transfer to the Board of such undertakings, and may, subject to the provisions of subsection (2), also provide—

- (a) for the transfer to, and the vesting in, the Board of any movable or

immovable property of such authority used for the purposes of such undertakings;

- (b) for the transfer to the Board of all or any rights, obligations and liabilities of such authority relating to or connected with such undertakings, and for the adaptation or modification of contracts or other instruments for the purpose of giving effect to the transfer of such rights, obligations and liabilities from such authority to the Board;
- (c) for the adaptation or modification of any written law to such extent as may be necessary for the purpose of enabling the Board to carry on such undertakings in lieu of such authority;
- (d) for such financial adjustments between such authority and the Board as may be necessary in consequence of any such transfer; and
- (e) for any other matter supplementary to or consequential on the matters aforesaid including the continuation of legal proceedings.

(2) A voluntary transfer scheme shall provide for the grant to the local authority by the Board of compensation in respect of the transfer of the electrical undertakings of such local authority to the Board.

(3) A voluntary transfer scheme shall bear the seal of the Board and the local authority in token of its preparation by the Board and such authority.

(4) A compulsory transfer scheme shall bear the seal of the Board in token of its preparation by the Board.

24. (1) For the purposes of the preparation of a transfer scheme under this Act in respect of the electrical undertakings carried on by a local authority in its

Powers of Board for the purposes of the preparation of a transfer scheme.

Compulsory transfer scheme.

Direction for preparation of compulsory transfer scheme.

Contents of transfer scheme.

capacity as a licensee within the meaning of the Electricity Act, the Board may—

- (a) hold such inquiries and inspect such movable or immovable property of the local authority as the Board may consider necessary ; and
- (b) direct such local authority, or any officer of such local authority, to furnish to the Board such particulars and other information as the Board may consider necessary relating to such undertakings and other matters for which provision is to be made in such scheme, and to produce for examination books or documents containing such particulars or information.

(2) It shall be the duty of a local authority or any officer of such local authority to comply with any direction issued to such local authority or such officer, as the case may be, by the Board under subsection (1).

(3) Any officer of a local authority who without reasonable cause fails to comply with any direction issued to him under subsection (1), shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year, or to a fine not exceeding one thousand rupees, or to both such imprisonment and fine.

25. (1) Upon the completion of the preparation of a voluntary transfer scheme by the Board and any local authority under this Act, the Board shall present such scheme to the Minister for his approval, and upon such presentation the Minister shall, with the concurrence of the Minister in charge of the subject of Local Government, either approve such scheme without modification, or approve such scheme with any such modifications as may be agreed upon by the Minister, the Board and such authority, or, in the absence of such agreement, as may be decided upon a reference by the Minister to arbitration, as hereinafter provided, of any matter which cannot be so agreed upon.

(2) Upon the completion of the preparation of a compulsory transfer scheme by the Board under this Act, the Board shall present such scheme to the Minister for his approval, and upon such presentation the Minister shall, with the concurrence of the Minister in charge of the subject of Local Government, either approve such scheme without modification, or approve such scheme with any such modifications as the Minister may deem necessary.

(3) In exercising his power of approval in respect of any transfer scheme under subsection (1) or subsection (2), the Minister shall have particular regard to the necessity of ensuring that the transfer scheme makes adequate provision in respect of the matters specified in section 23.

(4) The Minister, the Board and any local authority shall be bound by the decision given on any matter referred to arbitration under subsection (1).

26. (1) Where a voluntary transfer scheme has been approved by the Minister under this Act, the Minister shall prepare and publish in the Gazette, an Order, hereinafter in this Act referred to as a "voluntary transfer Order", embodying the provisions of such scheme and such other provisions as the Minister may deem necessary to give full force and effect to such scheme.

Orders to give effect to transfer schemes.

(2) Where a compulsory transfer scheme has been approved by the Minister under this Act, the Minister shall prepare and publish in the Gazette an Order, hereinafter in this Act referred to as a "compulsory transfer Order", embodying the provisions of such scheme and such other provisions as the Minister may deem necessary to give full force and effect to such scheme.

(3) A voluntary transfer Order may, from time to time, be amended, by the Minister by Order published in the Gazette, in such manner and to such extent as may, after prior consultation with the Minister in charge of the subject of Local Government, be agreed upon by the Minister, the Board and the local authority in respect of whose electrical undertakings such Order was

Presentation of schemes to Minister for approval.

made, or, in the absence of such agreement, as may be decided upon a reference by the Minister to arbitration, as hereinafter provided, of any matter which cannot be so agreed upon.

(4) The Minister, the Board and the local authority shall be bound by the decision given on any matter referred to arbitration under subsection (3).

(5) A compulsory transfer Order may, from time to time, be amended by the Minister by Order published in the Gazette.

[§ 2, 29 of 1979.]

(6) Every Order made by the Minister under this section shall come into force on the date of its publication in the Gazette or on such later date as may be specified in the Order.

[§ 2, 29 of 1979.]

(7) Every Order made by the Minister under this section shall, as soon as convenient after the date of its publication in the Gazette, be laid before Parliament.

Effect of a transfer Order.

27. (1) With effect from the date of the transfer to the Board of the electrical undertakings carried on by a local authority in its capacity as a licensee within the meaning of the Electricity Act, that local authority shall cease to be a licensee under that Act.

(2) The provisions of subsection (1) shall have effect notwithstanding the provisions of the Electricity Act.

Reference of certain disputes to arbitration.

28. (1) Any dispute between the Board and any local authority upon any matter or question relating to, or connected with, the giving effect to, or the interpretation of, any provision of any voluntary transfer Order or compulsory transfer Order which has come into force, shall be referred by the Board to arbitration through the Minister.

(2) The parties to any dispute referred to arbitration under subsection (1) shall be bound by the decision given upon such arbitration.

Procedure for taking possession of property for and on behalf of Board.

29. (1) For the purpose of giving effect to any voluntary transfer Order or compulsory transfer Order which has come into force, any officer of the Board authorized in writing in that behalf by the

Chairman of the Board may, subject to the provisions of subsection (2), take possession of any property transferred to and vested in the Board by such Order.

(2) The officer referred to in subsection (1) shall, by notice in writing—

(a) inform the local authority that such officer intends to take possession of such property for and on behalf of the Board on such date and at such time and place as shall be specified in the notice, and

(b) require an authorized agent of the local authority to be present on the date and at the time and place so specified and to assist such officer to take possession of such property.

(3) After any property has been taken possession of by an officer of the Board under subsection (1), such officer shall send a certificate to the local authority to the effect that he has taken possession of such property.

(4) The notice required to be given under subsection (2) shall be deemed to be given if it is sent by registered post to the local authority.

(5) Any person who fails, without reasonable cause, to comply with any requirement of a notice given under subsection (2), shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year, or to a fine not exceeding one thousand rupees, or to both such imprisonment and fine.

30. (1) Every person who prevents or obstructs any officer of the Board from taking possession of any property for and on behalf of the Board under section 29, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year, or to a fine not exceeding one thousand rupees, or to both such imprisonment and fine.

Prevention of, or obstruction to, taking possession of property for and on behalf of Board.

(2) Where any officer of the Board authorized under section 29 to take possession of any property for and on behalf of the Board, is unable or apprehends that he will be unable to take possession of such property because of any obstruction or resistance that has been or is likely to be offered, he shall, on making an application in that behalf to the Magistrate's Court having jurisdiction over the place where that property is kept or situated, be entitled to an order of the court directing the Fiscal to deliver possession of that property to him for and on behalf of the Board.

(3) Where an order under subsection (2) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute that order and shall in writing report to the court the manner in which that order was executed.

(4) For the purpose of executing an order issued by a Magistrate's Court under subsection (2), the Fiscal or any person acting under his direction may use such force as may be necessary to enter any place where any movable property to which the order relates is kept and seize such movable property, or to enter any land, building or other structure to which that order relates and to eject any person in occupation thereof, and to deliver possession of such movable property, land, building or other structure to the person who is authorized to take possession thereof for and on behalf of the Board.

PART III

STAFF OF THE BOARD

Appointments to the staff of the Board.

31. Subject to the provisions of section 5, the Board may appoint to its staff such officers and servants as the Board may deem necessary, and determine their terms of remuneration and other conditions of employment.

Notice required to be given by certain public officers of the Department before the transfer date. [§2,31 of 1969.]

31A. (1) Every public officer of the Department, not being any such officer in a transferable service of the Government, shall, before the date on which the Government Electrical Undertakings are transferred to the Board under section 18 (in this Act referred to as the " transfer date "),

give notice in writing to the General Manager of the Department that such officer intends, on that date,—

- (a) to continue in office as a public officer of the Department and to perform, so long as he so continues, work for and on behalf of the Board in his capacity as such officer; or
- (b) to retire from the public service and become an employee of the Board if, being a pensionable officer of the Department, he would on that date have had not less than ten years' pensionable service; or
- (c) to leave the public service and become an employee of the Board if, being a pensionable officer of the Department, he would on that date have less than ten years' pensionable service; or
- (d) to leave the public service and become an employee of the Board if he is a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance; or
- (e) to both leave the public service and not become an employee of the Board.

(2) A notice given to the General Manager of the Department before the transfer date by a public officer of the Department under subsection (1) shall be final.

31B. (1) Any public officer of the Department who does not give the notice required by subsection (1) of section 31 A before the transfer date, or gives such notice under paragraph (a) of that subsection, shall continue in office as such officer on and after that date and, for so long as he so continues in office, shall perform work for and on behalf of the Board in his capacity as such officer and be subject to the same conditions of service as he was subject to while doing work for the Department in his capacity as such officer, and accordingly the rules made by the Public Service Commission, and the Administrative Regulations, the Financial Regulations, and

Effect of not giving notice under section 31A(1) or giving such notice under section 31A(1)(a). [§2,31 of 1969.]

the Treasury Circulars of the Government, shall continue to apply to and in relation to such officer.

(2) Where any public officer of the Department continues in office as such officer on and after the transfer date performing work for and on behalf of the Board in his capacity as such officer, the Board shall pay out of the funds of the Board to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund, such sum not exceeding such amount as may be determined by the Minister in charge of the subject of Finance as sufficient to cover the salary, and other expenses including pension or provident fund contributions, payable by the Government in respect of such officer.

(3) In the event of any conflict or inconsistency between the provisions of subsection (1) and any other provisions of this Act, the provisions of that subsection shall to the extent of such conflict or inconsistency prevail over such other provisions.

Effect of a notice given under any of the paragraphs (b) to (e) of section 31A (1). [§2,31 of 1969,]

31C. (1) Any public officer of the Department who gives notice under any of the paragraphs (b) to (e) of subsection (1) of section 31A before the transfer date shall,—

- (a) if such notice is so given by him under paragraph (b) of that subsection, become an employee of the Board on that date and shall, subject to the provisions of section 32, be eligible for such a pension under the Minutes on Pensions as would have been awarded to him had he retired from the public service on the ground of abolition of office on that date ; or
- (b) if such notice is so given by him under paragraph (c) of that subsection, become an employee of the Board on that date and shall be deemed to have left the public service on that date and shall, subject to the provisions of section 32, be eligible for such an award under the Minutes on Pensions as would have been awarded to him if

he had left the public service on the ground of abolition of office on that date; or

- (c) if such notice is so given by him under paragraph (d) of that subsection, become an employee of the Board on that date, and shall be deemed for the purposes of the Public Service Provident Fund to have left the service of the Government upon the determination of contract with the consent of the Government otherwise than by dismissal; or
- (d) if such notice is so given by him under paragraph (e) of that subsection, and—
 - (i) if he is a public officer of the class or description referred to in paragraph (b) of that subsection, be deemed to have retired from the public service on that date and shall be eligible for such a pension under the Minutes on Pensions as would have been awarded to him had he retired from the public service on the ground of abolition of office on that date, or
 - (ii) if he is such an officer of the class or description referred to in paragraph (c) of that subsection, be deemed to have left the public service on that date and shall be eligible for such an award under the Minutes on Pensions as would have been awarded to him if he had left the public service on the ground of abolition of office on that date, or
 - (iii) if he is any such public officer of the class or description referred to in paragraph (d) of that subsection, be deemed for the purposes of the Public Service Provident Fund Ordinance to have left the service of the Government upon the determination of

contract with the consent of the Government otherwise than by dismissal.

(2) In the event of any conflict or inconsistency between the provisions of subsection (1) and any other provisions of this Act, the provisions of that subsection shall to the extent of such conflict or inconsistency prevail over such other provisions.

32. The following provisions shall apply to and in relation to any employee of the Board who became such an employee on the transfer date by virtue of the operation of the provisions of section 31c :—

- (1) Such employee shall be employed by the Board on such terms and conditions as may be agreed upon by such employee and the Board:

Provided, however, that such terms and conditions shall be not less favourable than the terms and conditions on which such employee was previously employed in the Department.

- (2) If on the transfer date, such employee was a public officer of the Department holding a post declared to be pensionable and who had less than ten and not less than eight years' pensionable service, then,—

- (a) he shall be deemed, for the purposes only of the Minutes on Pensions, to be holding the post in the Department that he held on the transfer date until such period of time as, when added to his pensionable service under the Government, makes an aggregate of ten years' pensionable service (service under the Board being counted as pensionable service under the Government for the computation of such aggregate);
- (b) in respect of him the Board shall pay out of the funds of the Board to the Deputy

Secretary to the Treasury to be credited to the Consolidated Fund for every complete month of the period of service during which he is deemed for the purposes only of the Minutes on Pensions to be holding the post in the Department that he held on the transfer date such sum as may be determined by the Minister in charge of the subject of Finance; and

- (c) at the end of such period he shall be deemed to have retired from the public service and shall be eligible for such a pension under the Minutes on Pensions as would have been awarded to him had he retired from the public service on the ground of abolition of office on the termination of such period.

(3) Notwithstanding—

- (a) the provisions of section 31C and the preceding provisions of this section; and
- (b) anything to the contrary in any other written law,

where a public officer of the Department becomes an employee of the Board by virtue of the operation of the provisions of section 31c,—

- (a) if such officer is eligible for a pension and elects to draw his full pension, he shall not be paid such pension during the period of his employment with the Board ;
- (b) if such officer is eligible for a pension and elects to draw a gratuity in partial commutation of one-fourth part of his pension in accordance with the provisions of section 2A (1) (i) of the Minutes on Pensions—
 - (i) such gratuity shall not be paid to him but shall be credited to his account in a provident fund of the Board established under section 12 (j) ;

Special provisions applicable to certain employees of the Board. [§3.31 of 1969.]

- (ii) the remaining three-fourths part of the pension payable to him under the said Minutes shall not be paid to him during the period of his employment by the Board; and
- (iii) for the purposes of the computation of the period of "twelve years and six months* from the date of his retirement " referred to in section 2A (1) (ii) of the said Minutes, the date of his retirement shall be deemed to be the last date of his employment under the Board ;
- (c) if such officer is eligible for a gratuity and not a pension under the Minutes on Pensions such gratuity shall not be paid to him but shall be credited to his account in a provident fund of the Board established under section 12 (j); and
- (d) if such officer is eligible for the receipt of any sum of money under the Public Service Provident Fund Ordinance, such sum shall not be paid to him but shall be credited to his account in a provident fund of the Board established under section 12(j).

32A. (1) Any person who on and after the transfer date continues in office as a public officer of the Department performing work for and on behalf of the Board in his capacity as such officer may at any time be permanently appointed to the staff of the Board.

(2) Where any public officer is permanently appointed to the staff of the Board under subsection (1), the provisions of subsection (3) of section 9 of the Motor Transport Act, No. 48 of 1957, shall, *mutatis mutandis*, apply to and in relation to him.

33. Where the electrical undertakings carried on by a local authority in its capacity as a licensee under the Electricity Act are transferred to the Board under this Act, the provisions of section 32 shall, *mutatis mutandis*, apply to and in relation to all officers and servants of the local authority, including members of the Local Government Service, subject to such modifications, alterations or additions as may be prescribed by regulation made in that behalf by the Minister in consultation with the Minister in charge of the subject of Local Government:

Provided, however, that the application of the provisions of section 32 shall not be construed to, and any regulation made as aforesaid shall not, adversely affect the terms of service of any public officer employed by the Board under the said provisions.

34. (1) At the request of the Board, any public officer, other than an officer referred to in section 31 A, may, with the consent of that officer and of the Secretary to the Treasury, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent, or be permanently appointed to such staff.

(2) Where any public officer is temporarily appointed to the staff of the Board under subsection (1), the provisions of subsection (2) of section 9 of the Motor Transport Act, No. 48 of 1957, shall, *mutatis mutandis*, apply to and in relation to him,

(3) Where any public officer is permanently appointed to the staff of the Board under subsection (1), the provisions of subsection (3) of section 9 of the Motor Transport Act, No. 48 of 1957, shall, *mutatis mutandis*, apply to and in relation to him.

(4) At the request of the Board, any officer or servant of any local authority (whether he be a member of the Local Government Service or not), other than an officer or servant referred to in section 33

Employment of personnel in case of transfer of electrical undertakings of a local authority to the Board.

Appointment of public officers and officers and servants of local authorities, other than those referred to in sections 31 A and 33, to the staff of the Board.

Special provisions applicable to certain persons who continue as public officers of the Department on and after the transfer date while performing work for and on behalf of the Board in their capacity as such officers. [§4,31 of 1969.]

* Subsequently changed into ten years by Gazette No. 316 of 1978-05-05.
f Repealed by Law No. 19 of 1978.

may, with the consent of such officer or servant and the local authority or the Local Government Service Advisory Board, as the case may be, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent, or be permanently appointed to such staff, on such terms and conditions including those relating to pension or provident fund rights as may be agreed upon by the Board and that Advisory Board or authority.

(5) Where an officer or servant of any local authority, whether he be a member of the Local Government Service or not, is temporarily appointed to the staff of the Board under subsection (4), he shall be subject to the same disciplinary control as any other member of the staff of the Board.

Service to the Board to be regarded as service to the Government for the purposes of contracts to serve the Government.

35. Where any person has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Board by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

Employment by Board of persons already in receipt of pensions.

36. Notwithstanding anything to the contrary in any other law, where any person who is already in receipt of a pension from the Government or from any local authority is employed by the Board he shall not be paid such pension during the period of his employment by the Board.

Interpretation.

37. For the purposes of this Part—

"pensionable public officer" means a public officer who—

- (a) holds a post declared to be a pensionable post under section 2 of the Minutes on Pensions; and
- (b) who does not belong to a transferable service of the Government;

"pensionable service" means service under the Government which is reckonable for pension under the Minutes on Pensions.

PART IV

FINANCE, AUDITING AND ANNUAL REPORT

38. It shall be the duty of the Board so to exercise its powers and perform its functions under this Act as to secure that the total revenues of the Board are sufficient to meet its total outgoings properly chargeable to revenue account including depreciation and interest on capital, and to meet a reasonable proportion of the cost of the development of the services of the Board.

General duty of the Board in financial matters.

39. Notwithstanding anything to the contrary in any other written law—

Transfer of certain moneys to the Board and investment of equity capital by Government in the Board and the payment of certain moneys to the Government by the Board.

(a) the balance lying to the credit of the Reserve, Renewals and Extensions Fund and the balance lying to the credit of the Net Revenue Account of the Government Electrical Undertakings shall, with effect from the date of the transfer to the Board of such Undertakings, be transferred to the Board, and the Board shall place such balances in an appropriate reserve fund or funds established by the Board with the General Treasury;

(b) all sums due to the Government from the Department in respect of moneys advanced by the Government (other than moneys advanced from loans obtained by the Government from the International Bank for Reconstruction and Development upon any agreement referred to in paragraph (c) of this section or upon any other agreement) to the Department for expenditure on capital works shall, with effect from the date of the transfer to the Board of the Government Electrical Undertakings, be deemed to be an investment of equity capital in the Board by the Government, and the Board shall pay to the Government a dividend on such equity capital at such rate not exceeding eight *per*

centum per annum as the Minister in charge of the subject of Finance may in consultation with the Minister determine;

- (c) the payments by way of interest and repayment of capital that have to be made by the Government to the International Bank for Reconstruction and Development upon agreement No. 101 CE dated July 9, 1954, agreement No. 209 CE dated September 17, 1958, and agreement No. 283 CE dated June 6, 1961, entered into between the Government and that Bank shall, with effect from the date of the transfer to the Board of the Government Electrical Undertakings, be made by the Board to the Government as such payments fall due; and
- (d) the payment of all sums by way of interest and repayment of capital that have to be made by the Government to the International Co-operation Administration and to the Export Credit Insurance Corporation of Canada shall, with effect from the date of the transfer to the Board of the Government Electrical Undertakings, be made by the Board to the Government as such payments fall due.

obligations or discharging its duties under this Act:

Provided that the aggregate of the amounts outstanding in respect of any temporary loans raised by the Board under this subsection shall not at any time exceed such sum as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

(2) The Board may, with the consent of the Minister given with the concurrence of the Minister in charge of the subject of Finance, borrow money, otherwise than by way of a temporary loan under subsection (1), for all or any of the following purposes:—

- (a) the provision of working capital;
- (b) the provision of money for meeting any expenses incurred in connexion with any permanent work or other thing, the cost of which is properly chargeable to capital account;
- (c) the redemption of any stock issued or any loan raised by the Board;
- (d) the provision of money necessary for the making of any payment to any local authority under the provisions of this Act; and
- (e) any other purpose for which capital moneys are properly applicable, including the repayment of any money temporarily borrowed under subsection (1).

(3) The Board may, with the consent of the Minister given with the concurrence of the Minister in charge of the subject of Finance, borrow money for any of the purposes mentioned in subsection (2) by way of loans from the Government, by the issue of Ceylon Electricity Stock under section 43, or in any other manner whatsoever.

Grant to the Board from the Consolidated Fund.

40. As soon as practicable after the coming into operation of this Act, there may be granted to the Board, with the prior approval of the House of Representatives, from the Consolidated Fund such sum of money and on such terms as may be determined by the Minister in charge of the subject of Finance in consultation with the Minister.

Borrowing powers of Board.

41. (1) The Board may, with the consent of the Minister, or in accordance with the terms of any general authority given by him, borrow temporarily, by way of overdraft or otherwise, such sums as the Board may require for meeting its

42. (1) The Government is hereby authorized to guarantee, on such terms and conditions as the Government may determine, loans raised by the Board from the International Bank for Reconstruction and Development, or from any other international or foreign organization Board may borrow from the International Bank for Reconstruction and Development, &c.

approved by the Government. The loans authorized to be guaranteed under this subsection may be denominated in foreign currency.

(2) All sums payable by the Government under any guarantee given under subsection (1) are hereby charged on the Consolidated Fund.

(3) All sums payable by the Board in respect of principal, interest and other charges on any loan to the Board from the International Bank for Reconstruction and Development or from any other international or foreign organization approved by the Government, or by the Government under any guarantee given under subsection (1) shall, notwithstanding anything to the contrary in any law of Sri Lanka, be paid—

- (a) without a deduction for, and free from, any taxes, duties or fees now or hereafter imposed by or under any law of Sri Lanka, and
- (b) free from all restrictions now or hereafter imposed by or under any law of Sri Lanka:

Provided, however, that the preceding provisions of this subsection shall not apply to any taxes, duties, fees or restrictions upon payments under any bond or promissory note to a holder thereof other than the International Bank for Reconstruction and Development or any other international or foreign organization approved by the Government when such bond or promissory note is beneficially owned by an individual or a corporation resident in Sri Lanka.

(4) For the purposes of subsection (3), the question whether an individual or a corporation is or is not resident in Sri Lanka shall be determined in accordance with the provisions of section 54 of the Inland Revenue Act, No. 4 of 1963, or section 67 of the Inland Revenue Act (No. 28 of 1979).

(5) Every guarantee agreement between the Government and the International Bank for Reconstruction and Development or any other international or foreign organization

approved by the Government pursuant to this Act and every guarantee given by the Government pursuant to any such guarantee agreement shall, notwithstanding anything to the contrary in any law of Sri Lanka, be valid and enforceable in accordance with their respective terms.

(6) In the case of any loan made to the Board by the International Bank for Reconstruction and Development or any other international or foreign organization approved by the Government and guaranteed by the Government, the Government shall bear any loss, and be entitled to any profit, resulting from any revaluation of the Sri Lanka rupee in relation to the currency or currencies in which that loan is expressed.

The amount of every such loss is hereby charged on the Consolidated Fund.

(7) The President, or any person authorized in that behalf by the President by instrument under his hand, is hereby empowered, on behalf of the Government, to sign any guarantee agreement between the Government and the International Bank for Reconstruction and Development or any other international or foreign organization approved by the Government.

(8) Notwithstanding anything in any other written law, no agreement, bond or other document executed by the Board in respect of any loan which may be raised by the Board from the International Bank for Reconstruction and Development, or from any other international or foreign organization approved by the Government, shall be subject to, or be charged with, any stamp duty or duties whatsoever.

(9) As soon as possible after the end of each financial year, the Minister in charge of the subject of Finance shall cause to be laid before Parliament a report containing a statement of every loan, bond and guarantee entered into under this section, during the course of that financial year.

43. (1) The Board may create and issue any stock required for the purpose of exercising the powers of the Board under subsection (3) of section 41, and the stock so created and issued is hereinafter in this Act referred to as "Ceylon Electricity Stock".

Ceylon
Electricity
Stock.

(2) Ceylon Electricity Stock shall be issued, transferred, dealt with, redeemed and cancelled in accordance with such terms as may be determined by the Board with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance.

Government guarantee.

44. (1) The Minister in charge of the subject of Finance may, with the concurrence of the Minister, guarantee the repayment of, and the payment of the interest on, any Ceylon Electricity Stock created and issued under section 43.

(2) Any sum required for the fulfilment of a guarantee provided under subsection (1) may, with the prior approval of Parliament, be paid out of the Consolidated Fund.

(3) Any sum paid out of the Consolidated Fund in fulfilment of a guarantee provided under subsection (1) shall be repaid, together with interest thereon at such rate as the Minister in charge of the subject of Finance may with the concurrence of the Minister determine, by the Board in such manner and over such period as the Minister in charge of the subject of Finance may with such concurrence determine.

Minister in charge of Finance to inform Parliament about guarantee.

45. (1) Immediately after a guarantee is provided under section 44, the Minister in charge of the subject of Finance shall lay or cause to be laid a statement of the guarantee before Parliament.

(2) Where any sum is paid under section 44, out of the Consolidated Fund in fulfilment of any guarantee provided under that section, the Minister in charge of the subject of Finance shall forthwith lay or cause to be laid before Parliament a statement that such sum has been paid.

Investment of the funds of the Board.

46. Any funds of the Board which are not immediately required for the purpose of the business of the Board shall be invested by the Board in such manner as the Minister may, with the concurrence of the Minister in charge of the subject of Finance, determine,

Reserves.

47. (1) The Board may establish and maintain with the General Treasury—

- (a) an insurance reserve to cover the insurance of movable and

immovable property of the Board and to meet third-party risks and liabilities arising under the Workmen's Compensation Ordinance;

- (b) a sinking fund in respect of the repayment of loans taken by the Board ;

- (c) a redemption fund in respect of the redemption of Ceylon Electricity Stock; and

- (d) any other reserve fund that the Board may consider necessary.

(2) The Board shall establish and maintain with the General Treasury—

- (a) a depreciation reserve to cover the depreciation of the movable and immovable property of the Board ; and

- (b) a general reserve for the purpose of financing capital works from revenue moneys, ensuring the financial stability of the Board, and for such other purposes as the Board may, from time to time, determine.

(3) The sums to be carried, from time to time, to the credit of each of the reserves and funds specified in subsections (1) and (2), shall be such sums as may be determined by the Board.

(4) The moneys comprised in the reserves and funds referred to in subsections (1) and (2) may be applied in such manner as the Board may determine.

48. (1) The revenue of the Board in any year shall be applied in defraying the following charges:—

Application of the revenue of the Board.

- (a) the working and establishment expenses (including allocations to the insurance reserve and the depreciation reserve), in connexion with the exercise and performance of the powers and duties of the Board, properly chargeable to revenue account ;

CEYLON ELECTRICITY BOARD

- (b) the interest on any temporary loan raised by the board ;
- (c) any sums required on account of the payments that have to be made to the Government under paragraph (c) of section 39;
- (d) the interest due on Ceylon Electricity Stock issued under section 43 ;
- (e) the interest on and the repayment of the principal of any loan from the Government or any other source; and
- (f) any sums required on account of the payment of a dividend under paragraph (d) of section 39.

(2) The surplus of the revenue of the Board in any year which remains after the charges mentioned in subsection (1) have been defrayed, shall be allocated to any one or more of the reserves and funds established under section 47.

Accounts of the Board and audit of such accounts.

49. (1) The Board shall cause proper accounts of its income and expenditure and of all its other transactions to be kept in a form which shall conform to the best commercial standards, and shall prepare an annual statement of accounts and statistics relating to its business in such form and containing such particulars as the Minister, with the concurrence of the Minister in charge of the subject of Finance, may from time to time specify. The financial year of the Board shall commence on such date as may be determined by the Board.*

(2) The accounts of the Board for each financial year shall be audited by the Auditor-General. For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor or auditors who shall act under his direction and control.

(3) For the purpose of meeting the expenses incurred by him in the audit of the accounts of the Board, the Auditor-General shall be paid by the Board such

remuneration as the Minister may, with the concurrence of the Minister in charge of the subject of Finance, determine. Any remuneration received from the Board by the Auditor-General shall, after deducting any sums paid by him to any qualified auditor employed by him for the purposes of such audit, be credited to the Consolidated Fund.

(4) The Auditor-General shall examine the accounts of the Board and furnish a report—

- (a) stating whether he has or has not obtained all the information and explanations required by him;
- (b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Board; and
- (c) drawing attention to any item in the accounts which in his opinion may be of interest to Parliament in any examination of the activities and accounts of the Board.

(5) The Auditor-General shall transmit his report to the Board.

(6) For the purposes of this section, the expression " qualified auditor " means—

- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute ; or
- (b) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute.

* The Financial Year has since been fixed as commencing on the 1st day of January of each year — See Sections 23 and 24 of the Finance Act, No. 38 of 1971.

Powers of Auditor-General and his assistants.

50. The Auditor-General and any person assisting him in the audit of the accounts of the Board shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Board as the Auditor-General may consider necessary for the purposes of such audit, and shall be furnished by the Board or its officers with such information within their knowledge as may be required for such purposes.

Report of the Board and copies of Auditor-General's report and statement of accounts and statistics to be sent to the Minister and laid before Parliament, and copies of such reports and statistics to be made available for purchase by the public.

51. (1) The Board shall, as soon as possible, after the end of each financial year of the Board, make to the Minister a report on the exercise and performance by the Board of its powers and duties during that year and on its policy and programme. Such report for any year shall set out any direction given by the Minister to the Board during that year unless the Minister has notified to the Board his opinion that it is against the interest of national security to do so. The Minister shall lay a copy of such report before Parliament.

(2) The Board shall, on receipt of the Auditor-General's report in each year, transmit to the Minister—

- (a) a copy of such report; and
- (b) a copy of the statement of accounts and statistics prepared under subsection (1) of section 49.

(3) The Minister shall lay copies of the report and statement referred to in subsection (2) before Parliament.

(4) The Board shall cause copies of the report of the Board and of the Auditor-General's report and the statement of accounts and statistics referred to in subsection (2) to be printed at the expense of the Board and to be made available for purchase by the public at such price as shall be determined by the Board.

PART V

TARIFFS AND CHARGES

Board to fix tariffs and charges.

52. (1) Subject to the provisions of this Act, the prices to be charged by the Board for the supply of electrical energy by the

Board shall be in accordance with such tariffs as may be fixed, from time to time, by the Board with the approval of the Government:

Provided, however, that—

- (i) the tariffs in force—
 - (a) immediately prior to the date of the transfer to the Board of the Government Electrical Undertakings, in any area of supply of such Undertakings, or
 - (b) immediately prior to the date of the transfer to the Board of the electrical undertakings carried on by a local authority in its capacity as a licensee within the meaning of the Electricity Act, in the authorized area of supply of such licensee,

shall continue in force and be deemed to be tariffs fixed by the Board under this section until varied or replaced by tariffs fixed by the Board in accordance with this section; and

- (ii) the preceding provisions of this section shall not preclude the Board from charging special prices by agreement with any person or body.

(2) Before any tariffs are fixed by the Board under subsection (1), the Board shall, by notification published in the Gazette, give publicity to such tariffs and a period of one month shall be fixed by the Board to enable any person or body or local authority to make representations relating to such tariffs.

(3) The tariffs fixed by the Board under subsection (1)—

- (a) shall be published in the Gazette and in such other manner as may appear to the Board best calculated to give publicity to such tariffs;

- (b) shall come into force on the date of their publication in the Gazette or on such later date as may be specified therein; and
- (c) may include rent and other charges in respect of electrical fittings provided by the Board.

No undue preference to be shown in fixing tariffs and making agreements under section 52.

53. The Board, in fixing tariffs and making agreements under section 52, shall not show undue preference as between persons similarly placed, having regard to the place and time of the supply of electrical energy, the quantity of such energy supplied, the consumer load and power factor and the purpose for which such supply is taken.

Board to determine tariff in cases of doubt.

54. If any question arises as to whether or not a tariff is applicable in any case, or as to which tariff is so applicable, the Board shall determine that question, and such determination shall be final and conclusive.

Recovery of electricity supply charge from a local authority.

55. (1) In this section, the expression "electricity supply charge" means the sum payable to the Board for electrical energy supplied by the Board.

(2) (a) The electricity supply charge of a local authority in respect of any month shall be paid by such authority—

- (i) within a period of thirty days from the date of the receipt by such authority of a bill relating to such charge from the Board, or
- (ii) where such authority, upon receipt of such bill, disputes, under subsection (3), a part or the whole of the amount of such charge—
 - (aa) in respect of the undisputed part of such bill, within a period of thirty days from the date of receipt of the bill; and
 - (bb) in respect of the disputed part of such bill, within a period of thirty days from the date of the final determination of such disputed part as hereinafter provided.

(b) A bill relating to the electricity supply charge sent by the Board to a local authority shall be dispatched by registered post and shall be deemed to have been received by that authority on the day on which that bill would have been delivered in the ordinary course of post.

(3) Where a local authority receives a bill from the Board for the payment of the electricity supply charge of such authority in respect of any month, such authority may, within a period of twenty-one days from the date of receipt by that authority of such bill, dispute a part or the whole of the amount of such charge by a written communication to that effect to the Board. Such communication shall specify the portion of such amount so disputed and the reasons therefor.

(4) No local authority shall be entitled to dispute the amount of the electricity supply charge of such authority in respect of any month except under and in accordance with subsection (3).

(5) Where a part or the whole of the amount of the electricity supply charge of any local authority in respect of any month is disputed by such authority, such disputed part of the amount —

- (a) shall be finally determined by agreement between the Board and such authority, or
- (b) in the absence of such agreement within a period of thirty days from the date of the receipt by the Board of a communication as to such dispute from such authority under subsection (3), shall be finally determined by arbitration, and for that purpose, the Board is hereby required and authorized to refer the dispute to arbitration through the Minister.

(6) A final determination as to the disputed part of the amount of the electricity supply charge of any local authority, whether by agreement or on arbitration, shall be binding on the Board and such authority.

(7) Where the electricity supply charge of a local authority in respect of any month is not paid by such authority to the Board

within the period it is so required to be paid under subsection (2), the Chairman of the Board shall certify in writing the amount which is due from such authority on account of such charge that has not been so paid.

(8) Upon the production of a certificate issued by the Chairman of the Board under subsection (7) before any District Court or Primary Court within whose jurisdiction the whole or any part of the area of administration of the local authority in respect of which such certificate is issued is situated, according as the sum specified in such certificate exceeds or does not exceed one thousand five hundred rupees, the court shall direct a writ of execution to issue to the Fiscal authorizing him and requiring him to seize and sell all or any of the property movable or immovable of such authority or such part thereof as may be necessary for the recovery of that sum, and the provisions of sections 226 to 297 of the Civil Procedure Code* shall, *mutatis mutandis*, apply to the execution of such writ and to such seizure and sale.

(9) Where the Chairman of the Board issues the certificate referred to in subsection (7), he shall in writing notify the local authority specified in the certificate that the sum so specified is payable, but the non-receipt of such notice by such local authority shall not invalidate the proceedings under this section.

(10) Nothing in the provisions of subsections (8) and (9) of this section shall affect or be deemed or construed to affect the right of the Board to recover in any other manner any sum payable to the Board by a local authority on account of the electricity supply charge of that authority.

(11) Any sum due to the Board from a local authority in respect of the electricity supply charge of that authority shall, notwithstanding anything to the contrary in any other written law, be the first charge on the moneys in the fund of that authority.

PART VI

GENERAL

56. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act. Regulations and penalty for their contravention.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of all or any one of the following matters :—

(a) any matter required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made ; and

(b) the prevention of theft of, or damage to, or the commission of nuisances on, any property used by the Board, and the imposition of penalties on, and the recovery of compensation from, persons responsible for such theft, damage or nuisance.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(5) Any person who contravenes the provisions of any regulation made under this Act shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand rupees, or to both such imprisonment and fine.

* Vide section 78 of the Primary Courts Procedure Act.

Acquisition of immovable property under the Land Acquisition Act for the Board.

57. (1) Where any immovable property is required to be acquired for any purpose of the Board and the Minister, by Order published in the Gazette, approves of the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired under the Land Acquisition Act and be transferred to the Board.

(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act for the Board, shall be paid by the Board.

Power of companies, &c.. to enter into contracts with the Board.

58. Any company or other body of persons may, notwithstanding anything to the contrary in any written law or instrument relating to its functions, enter into and perform or carry out all such contracts and agreements with the Board as may be necessary for the performance of the duties and the exercise of the powers of the Board.

Protection for action taken under this Act or on the direction of the Board.

59. (1) No suit or prosecution shall lie-

- (a) against the Board for any act which in good faith is done or is purported to be done by the Board under this Act; or
- (b) against any member, officer, servant or agent of the Board for any act which in good faith is done or is purported to be done by him under this Act or on the direction of the Board.

(2) Any expense incurred by the Board in any suit or prosecution brought by or against the Board before any court shall be paid out of the funds of the Board, and any costs paid to, or recovered by, the Board in any such suit or prosecution shall be credited to the funds of the Board.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Board shall, if the court holds that such act was done in good

faith, be paid out of the funds of the Board, unless such expense is recovered by him in such suit or prosecution.

60. No writ against person or property shall be issued against a member of the Board in any action brought against the Board.

No writ to issue against person or property of a member of the Board.

61. Where any immovable property of the State is required for the purpose of the Board, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the State Lands Ordinance, and accordingly, the provisions of that Ordinance shall apply to a special grant or lease of such property to the Board.

Special grant or lease of State property to Board.

62. (1) Where any matter or dispute is required to be referred to arbitration by the Minister under this Act or is referred to arbitration through the Minister under this Act, such matter or dispute shall be so referred by the Minister, as soon as practicable, to a Board of Arbitration consisting of one arbitrator appointed by the Board, another arbitrator appointed by the other party to the matter or dispute, and an umpire (who shall be appointed by the Minister to be the Chairman of the Board of Arbitration) agreed upon by the two arbitrators or, in the event of an absence of such agreement within two months, nominated by the Minister.

Arbitration.

(2) In the event of any difference of opinion among the members of the Board of Arbitration, the decision or determination of the majority shall be the decision of that Board.

(3) Regulations may be made—

- (a) in respect of all matters relating to or connected with the conduct of proceedings upon arbitration under this section; and
- (b) providing for the payment of fees to the persons appointed under this section as arbitrators or as members of the Board of Arbitration.

(4) The decision or determination given upon arbitration under this section in respect of any matter or dispute shall be final and conclusive.

Penalty for causing failure of electricity supply of the Board.

63. (1) Any person who, unlawfully and maliciously, does any act which causes or is likely to cause a failure of electrical energy supplied by the Board, shall be guilty of an offence.

(2) Any person who aids or abets any other person in the commission of an offence under subsection (1), shall be guilty of an offence.

(3) Every person who is guilty of an offence under subsection (1), or subsection (2), shall upon conviction be liable to rigorous imprisonment for a term not exceeding seven years.

(4) Every offence under subsection (1) or subsection (2) shall, notwithstanding anything in the Code of Criminal Procedure Act, be a cognizable offence within the meaning and for the purposes of that Act.

Amendment of other written laws, &c.

64. (1) Wherever, in any provision of any other written law or in any notice, permit, communication, form or other document issued, made, required or authorized by or under any other written law—

(a) the expression "Department of Government Electrical Undertakings" occurs, there shall be substituted therefor, the expression "the Ceylon Electricity Board "; and

(b) the expression "General Manager, Department of Government Electrical Undertakings" occurs, there shall be substituted therefor, the expression "General Manager, Ceylon Electricity Board ",

and accordingly, wherever in any such provision, notice, permit, communication, form or other document—

(i) the abbreviation "Department" is used to denote the Department of Government Electrical Undertakings, such abbreviation shall be read and construed as a reference to the Ceylon Electricity Board ; and

(ii) the abbreviation "General Manager" is used to denote the General Manager of the Government Electrical Undertakings, such abbreviation shall be read and construed as a reference to the General Manager of the Ceylon Electricity Board.

(2) The provisions of subsection (1) shall take effect on the date on which the Government Electrical Undertakings are transferred to the Board under section 18.

65. The provisions of this Act shall have effect notwithstanding anything contained in any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail.

This Act to prevail over other written laws.

66. In this Act, unless the context otherwise requires—

Interpretation.

"Department" means the Department of Government Electrical Undertakings;

"local authority " includes any Municipal Council, Urban Council, Town Council or Village Council;

"Local Government Service ", " Local Government Service Advisory Board ", and " member of the Local Government Service" have the same meanings, respectively, as in the Local Government Service Law;

" Minister in charge of the subject of Local Government" means the Minister who is in charge of the subjects and functions relating to or connected with Local Government, whether with or without any other subjects or functions;

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- "prescribed" means prescribed by regulation ; section 20 or a compulsory transfer scheme prepared under section 21;
- "public officer" has the same meaning as in the Constitution; "transferable service of the Government" means a service of the Government to which appointments are made subject to transfer within that service-
- "transfer scheme" means a voluntary transfer scheme prepared under

[NOTE—Amendments effected to the Electricity Act by section 17 of this Act, read with the Schedule to this Act, are omitted and incorporated in the Electricity Act.]

CHAPTER 635

CO-OPERATIVE EMPLOYEES COMMISSION

Act AN ACT TO ESTABLISH AND INCORPORATE A COMMISSION TO BE KNOWN AS THE
No. 12 of 1972. CO-OPERATIVE EMPLOYEES COMMISSION, TO MAKE SPECIAL PROVISION IN
RESPECT OF EMPLOYEES OF CO-OPERATIVE SOCIETIES, AND TO PROVIDE FOR
MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[21st March, 1972.]

Short title. **1.** This Act may be cited as the Co-operative Employees Commission Act. (3) A person shall not be qualified for appointment as a member of the Commission, if he is—

Power of Minister to exempt co-operative societies from the succeeding provisions of this Act. **2.** The Minister may, by Order published in the Gazette, exempt from the succeeding provisions of this Act— (a) an employee or a past employee of a co-operative society; or

(a) any such class of co-operative societies as shall be specified therein; or (b) a person who is a member of any body of persons which, in the opinion of the Minister, is a staff association, or trade union, which has as its objects, or one of its objects, the regulation of salaries, wages or conditions of service of any category of persons employed by co-operative societies; or

(b) any such co-operative society as shall be so specified, (c) a person who is an officer of a co-operative society according to the law relating to co-operative societies; or

and accordingly the expression "co-operative society", wherever it occurs in such provisions, shall be read and construed to mean a co-operative society in respect of which any such Order is not for the time being in force. (d) a person who is for the time being a Member of Parliament.

PART I

CONSTITUTION, POWERS AND FUNCTIONS OF THE CO-OPERATIVE EMPLOYEES COMMISSION

Establishment of Co-operative Employees Commission. **3.** For the purposes of this Act, an authority to be called and known as the Co-operative Employees Commission shall be established.

5. The Commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate capacity. *Incorporation of the Commission.*

Constitution of the Commission. **4.** (1) The Commission shall be constituted in accordance with the succeeding provisions of this section.

6. Each member of the Commission shall hold office for a period of three years from the date of his appointment: *Term of office of members.*

(2) The Commission shall consist of three members appointed by the Minister. Provided that notwithstanding the term of any such appointment—

(a) any such member may at any time resign his office or be removed from office by the Minister; and

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(b) any such member shall, upon his becoming disqualified in terms of section 4 (3), ipso facto, vacate his office;

Provided, further, that any person who is appointed to fill any vacancy caused by the death, resignation or removal from or vacation of office, of any such member shall, unless he vacates office earlier, hold office during a period equal to the unexpired portion of the term of office of the member in whose place he is appointed and no longer.

Chairman,
and conduct
of business.

7. (1) The Minister shall appoint one of the members of the Commission to be its Chairman. The Chairman shall preside at all meetings of the Commission at which he is present. In the absence of the Chairman from any meeting of the Commission any member chosen by those present may preside thereat.

(2) Two members shall constitute the quorum for a meeting of the Commission.

(3) If at any meeting only two members of the Commission are present and such members are divided in opinion as to the decision to be taken on any question, such question shall be referred to a meeting at which the three members of the Commission are present.

(4) If at any meeting, at which the three members of the Commission are present, the members of the Commission are divided in opinion as to the decision to be given on any question, such question shall be decided according to the opinion of the majority of the members present, but if the members are equally divided, then, the Chairman shall have a casting vote.

(5) The Commission may regulate its own procedure in any matter not provided for in this Act or any regulation made thereunder.

(6) Any act or proceeding of the Commission shall not be invalid by reason only of the existence of a vacancy among its members or any defect in the appointment of any of its members.

Remuneration
of members.

8. The Chairman and members of the Commission shall be paid such

remuneration and such allowances as may be determined by the Minister, in consultation with the Minister in charge of the subject of Finance.

9. (1) There shall be a Secretary of the Commission who shall be a member of the Ceylon Administrative Service.

Secretary and
other officers.

(2) The other members of the staff of the Commission shall be appointed from the transferable services of the Government.

10. (1) The members of the Commission shall, on first appointment, take an oath or make an affirmation in the form set out in the Schedule to this Act.

Taking of
oaths by
members and
officers of the
Commission.

(2) The Secretary to the Commission, and such of the other officers of the Commission as may be required so to do by the Chairman thereof, shall, on first appointment, take an oath or make an affirmation in the form set out in the Schedule to this Act.

11. (1) The Commission shall have the following powers:—

Powers of the
Commission.

(a) to determine all matters relating to methods of recruitment to, and conditions of employment of, employees of, co-operative societies, and the principles to be followed by such societies in making appointments and in making promotions from one post in a co-operative society to another post in the same society;

(b) to conduct examinations for recruitment as employees of co-operative societies or to appoint boards of examiners for the purpose of conducting such examinations and to charge fees from candidates presenting themselves for examinations;

(c) to determine the qualifications necessary for appointment to any such post, to fix the scales of salaries to be attached to any such post or posts in any class or grade, to revise or adjust such scales of salaries, from time to time, in

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- consultation with the Commissioner and to establish such consultative machinery as the Commission may deem necessary to assist it in determining the remuneration and conditions of service of co-operative employees;
- (d) to require co-operative societies to pay salaries in accordance with the salary scales fixed by the Commission for any post or posts in any class or grade;
- (e) to determine the procedure or procedures to be followed by any co-operative society in exercising its rights of disciplinary action against its employees, to call upon any co-operative society to complete disciplinary inquiries against its employees within a time stipulated by the Commission, and to hear appeals arising out of any disciplinary orders made by any co-operative society;
- (f) to call upon any co-operative society to keep the prescribed records relating to employees of that society;
- (g) to call upon any co-operative society to furnish before a specified date such files, other documents or information as the Commission may require in respect of any employee of that society ;
- (h) to nominate a panel or panels of officers to make such inquiries as are necessary on appeals that are referred by the Commission to such panel or panels and to report thereon to the Commission;
- (i) to require any co-operative society to carry out such instructions, including instructions relating to reinstatement, as may be given by the Commission in regard to any employee of such society, where the conduct of the employee has been the subject of an inquiry and the employee had appealed to the Commission against the decision of the society;
- (j) to determine the general principles in accordance with which gratuity or other benefits may be granted to employees on the termination of their services;
- (k) to advise the Minister, in consultation with the Commissioner, in regard to the exemption of any co-operative society or class of co-operative societies from the operation of this Act;
- (l) to exercise such other powers in relation to co-operative societies and their employees as may be vested in the Commission by Order made by the Minister and published in the Gazette.
- (2) In the exercise of the powers vested in the Commission by subsection (1), the Commission may modify, vary or revise or set aside any decisions or determinations made by the Commission.
- 12.** The expenses of the Commission shall be paid out of the moneys provided for the purpose by Parliament under the Annual Appropriation Act.

Financial provisions.

PART II

CO-OPERATIVE SOCIETIES AND THEIR EMPLOYEES

- 13.** A co-operative society which for the time being pays out of its funds the salary and other emoluments of any employee shall be deemed to be the employer of such employee.
- 14.** Any co-operative society, and any employee of such society, shall be subject to such directions as may be given by the Commission under this Act, and all decisions of the Commission in the discharge and exercise of its functions and powers under this Act, subject to the provisions of section 11 (2), shall be final, and shall be binding on all such co-operative societies as are not exempted from the operation of this Act by Order made under section 2 by the Minister and on the employees of such societies-

Co-operative society to be an employer.

Co-operative societies and their employees to be subject to directions of the Commission.

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Directions of Commission to be binding upon employees of co-operative societies.

15. All directions given by the Commission in regard to any employee of any co-operative society, subject to the provisions of section 11 (2), shall be final and binding upon such employee as-if such directions were given by such society.

Introduction of terms and conditions of service and options as to their acceptance.

16. (1) The first terms or conditions of service to be introduced by the Commission shall be effective from the appointed date or, in the case of the first salary scales to be introduced, such later date or dates as the Commission may prescribe.

(2) Every employee employed prior to September 2, 1970, shall be given the option to remain in service, if he so wishes, on the terms and conditions of service which applied to him immediately prior to such date.

(3) Any employee who opts to remain in service on the terms and conditions of service which applied to him immediately prior to the appointed date shall, within sixty days after the appointed date, in writing notify the co-operative society in which he is employed of such option, and an employee who fails to give such notice within that period shall be deemed to have accepted the terms and conditions of service prescribed by the Commission.

(4) Any employee who opts to remain in service on the terms and conditions of service which applied to him immediately prior to the appointed date shall be required to accept the terms and conditions of service prescribed by the Commission in the event of his accepting an offer of promotion at any time after the appointed date.

(5) All appointments, made to posts in any co-operative society, on or after the appointed date, shall be on the terms and conditions of service prescribed by the Commission, and all promotions made prior to the appointed date, which are to take effect on or after that date, shall be subject to the approval of the Commission and shall be regarded as appointments on or after the appointed date.

(6) All options exercised under this section whereby the terms and conditions of service prescribed by the Commission are accepted, shall be irrevocable.

17. (1) The Commission may, in its absolute discretion, require any employee to satisfy the Commission, by examination or otherwise, of his proficiency and fitness to hold that office:

Examination of serving officers and restriction on application of new terms and conditions of service.

Provided that the preceding provisions of this subsection shall apply only to such category or categories of employees as may be prescribed.

(2) Where the holder of an office to which subsection (1) applies fails to satisfy the Commission of his proficiency and fitness to hold such office, the Commission shall endeavour to place him, with his consent, in an office which, in the opinion of the Commission, is commensurate with his abilities, and in default of such placement, the Commission may, in its absolute discretion, require that his employment be terminated by his co-operative society in accordance with the terms and conditions of service then applicable to him or where no such terms exist, after giving reasonable notice.

(3) Where the holder of an office to which subsection (1) applies opts to accept the terms and conditions of service prescribed by the Commission, he shall not be entitled to such terms and conditions of service, unless and until he has satisfied the Commission in accordance with the provisions of subsection (1).

18. No person shall be appointed to any post in a co-operative society in any district unless that person has been resident within that district for a period of at least two years:

Residential qualifications.

Provided, however, that where in the opinion of the Commission, no suitable candidate is available in any district for any post in any co-operative society in that district, the Commission may permit that society to fill that post by appointing a suitable person who may not have resided for two years within that district,

19. Any person appointed to a post in a co-operative society shall be assigned the scale of salary pertaining to that post in accordance with the grading of such society and the grade or class of employees as determined under section 29 (1).

Scales of salary of employees to be determined according to grading of a co-operative society and grade or class of employees.

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Secondment of Government servants.

20. Notwithstanding any other provisions of this Act, the Commission may, with the approval of the Minister and with the consent of the person and the co-operative society concerned, appoint to any office in the co-operative society, a person in the service of the Government seconded for service in that society for that purpose, for such period and on such terms and conditions as the Commission may approve.

For the purposes of this section, "Minister" means the Minister in charge of the Government department where the person is employed.

Salaries of employees of co-operative societies.

21. Every co-operative society shall out of its funds pay the salary and other allowances, if any, of its employees.

Transfer of employees of co-operative societies.

22. (1) A co-operative society shall have the power to transfer any employee of such society from any one of its work places to any other of its work places, and where such transfer is made for any reason other than on disciplinary grounds, such transfer shall not adversely affect the emoluments of any such employee.

(2) The Commission shall have the power to transfer any employee of a co-operative society to another co-operative society as an employee of the latter society at the joint request of two employees holding posts of similar status, provided that the concurrence of the respective employers has been previously obtained.

Dismissal and punishment of employees of co-operative societies.

23. (1) No employee of a co-operative society shall be dismissed or otherwise punished by any co-operative society except in accordance with the provisions of this Act or any regulations made thereunder.

(2) Nothing in the preceding provisions of this section shall be deemed to render it unlawful for any co-operative society to commence proceedings in accordance with such provisions, or to continue and complete as far as possible in accordance with such provisions any proceedings pending on the appointed date against any of its employees in respect of any misconduct or breach of discipline or other cause of complaint which may have occurred or arisen before such date.

24. (1) A co-operative society shall not require any employee to furnish by way of security an amount in excess of such sum as the Commission may prescribe.

Security furnished by employees of co-operative societies.

(2) Any cash security furnished by any employee of a co-operative society shall be invested in a bank in the name of the society, and any interest accruing thereon shall be paid to that employee.

25. (1) Regulations may be made—

Regulations relating to employees.

(a) in respect of the recruitment, appointment, promotion, transfer, resignation and termination of services of employees of co-operative societies;

(b) prescribing such terms and conditions of employment of such employees and providing for salary scales, the payment of allowances and gratuities, the grant of advances, promotion, leave, the interdiction of officers, the termination of appointments, dismissals or the imposition of any other form of punishment to such employees and any appeal therefrom; and

(c) in respect of such other matters relating to the terms of employment, or the conditions of service, of such employees as are deemed necessary.

(2) Every regulation made in respect of any matter referred to in subsection (1) shall be binding on all co-operative societies and their employees.

26. Every co-operative society shall—

Duties of co-operative society in respect of its employees.

(a) keep and maintain in respect of every one of its employees the prescribed registers or records, and enter therein all such particulars relating to each such employee as may be prescribed;

(b) furnish to the Commission such returns or reports relating to its employees as may be prescribed or such information as the Commission may, from time to time, require; and

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(c) permit any member or servant of the Commission authorized in that behalf to enter any of its offices and to inspect and take copies of any books, accounts, records or other documents kept therein.

Provident Fund.

27. Every co-operative society which is an employer and every employee of such society shall contribute periodically to the Employees' Provident Fund such amounts as may be required by law.

Co-operative employees to be employees of the society and not of the Commission.

28. For the avoidance of doubt, it is hereby declared that all employees whether employed prior to the appointed date or after, are servants of, employed by and owe their loyalty to the society by which they are employed.

PART III

POWERS OF THE COMMISSIONER

Commissioner to grade societies and determine staff.

29. (1) The Commissioner shall have the power to grade each co-operative society for the purpose of fixing scales of salaries for posts in co-operative societies and to determine the grades or classes of employees and the number of employees in each such grade or class of any co-operative society and vary it as he may deem necessary from time to time.

(2) No co-operative society shall employ any person in contravention of the determination made by the Commissioner under subsection (1).

The Commission to secure the concurrence of the Commissioner regarding qualifications, salary scales, &c.

30. The Commission shall, with the concurrence of the Commissioner, determine the qualifications necessary for appointment to any post in co-operative societies, fix the scales of salary to be attached to any such post or posts in any class or grade and revise such scales of salaries from time to time.

PART IV

MISCELLANEOUS

Removal of difficulties.

31. If in giving effect to the provisions of this Act any doubt or difficulty arises in

respect of any matter or question for which no provision or no effective provision is made by this Act, the Minister may, by Order, remove or determine such doubt or difficulty. Every such Order shall be published in the Gazette, and upon such publication shall have the force of law and be as valid and effectual as if it were herein enacted.

32. (1) Unless otherwise expressly provided, the Commission may make all such regulations as may seem to the Commission to be necessary for carrying out the provisions of this Act or giving effect to the principles thereof, including regulations for all matters for or in respect of which regulations are authorized or required to be made under this Act, and all matters stated or required by this Act to be prescribed.

Commission to make regulations.

(2) No such regulation shall have effect until it has been approved by the Minister and notification of such approval has been published in the Gazette.

(3) Upon the publication in the Gazette of any notification under subsection (2), the regulation to which the notification relates shall be as valid and effectual as though it were herein enacted.

33. No action, prosecution or other proceeding, whether civil or criminal, shall be instituted or maintained against any individual member of the Commission in respect of any decision taken or act done or omitted to be done by him in his capacity as such member or by the Commission in its corporate capacity.

Immunity of individual members of the Commission.

34. Notwithstanding the provisions of this Act, a co-operative society may in the interests of its efficient operation—

Engagement of contractual, casual or daily-paid employees.

(a) engage the services of an expert or any specialist for any defined term on a contractual basis with the prior approval of the Commission ; or

(b) engage casual or daily-paid employees, or employees paid on a piece rate basis;

Provided, however, that no permanency of tenure of the office shall be granted to

CO-OPERATIVE EMPLOYEES COMMISSION [Cap. 635]

such employees without the concurrence of the Commission.

Offences. **35.** (1) Any co-operative society or any officer or employee thereof—

(a) which or who contravenes the provisions of this Act, or

(b) which or who wilfully neglects or refuses or fails to do any act required by the Commission to be done, or to furnish any information required for the purposes of this Act by the Commission or other duly authorized person, or

(c) which or who wilfully makes a false return or furnishes false information,

shall be guilty of an offence under this Act.

(2) Every co-operative society or person which or who commits any offence referred to in subsection (1) shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees.

(3) Where any offence under this Act is committed by a co-operative society, every officer of that society shall be deemed to be guilty of the offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(4) On the conviction of any co-operative society for failure to carry out any such instructions given by the Commission as requires the reinstatement of any employee, such co-operative society shall be liable—

(i) to pay, in addition to any punishment that may be imposed on such co-operative society under subsection (2), a fine of fifty rupees for each day on which the failure is continued after conviction thereof; and

(ii) to pay such employee the remuneration which would have been payable to him if he had been in such service on each such day

and on each day of the period commencing on the date on which he should have been reinstated in service according to the instructions of the Commission and ending on the date of the conviction of such co-operative society, computed at the rate of salary or wages to which he would have been entitled if his services had not been terminated.

Any sum which a co-operative society is liable to pay under paragraph (ii) of this subsection may be recovered on the order of the court by which it was convicted as if it were a fine imposed on it by that court and the amount so recovered shall be paid to the employee.

36. Every person who, otherwise than in the course of his duty, directly or indirectly, by himself or by any other person, in any manner whatsoever influences or attempts to influence any decision of the Commission or any member thereof 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 for a term not exceeding one year or to both such fine and such imprisonment.

Interference with the Commission.

37. No member of the Commission, nor the Secretary of the Commission, nor any member of the staff of the Commission, nor any other person shall publish or disclose to any person, otherwise than in the exercise of his official functions, the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties.

Unauthorized disclosure of information prohibited.

38. No person shall in any legal proceedings be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between the Commission or any member, or officer thereof, and any co-operative society or any member of the committee of management of such society or officer thereof, or between any member or officer of the Commission in the exercise of, or in connexion with the exercise of, any of the functions of the Commission, unless the Chairman shall consent in writing to such production or disclosure.

Communications of the Commission to be privileged.

Cap. 635] CO-OPERATIVE EMPLOYEES COMMISSION

Certain enactments not to apply to co-operative societies and their employees.

39. Nothing in the Industrial Disputes Act shall apply, or be construed or deemed to apply, to or in relation to the Commission or any co-operative society in its capacity as employer or in relation to any employee in the employment of any co-operative society:

Provided, however, that the preceding provisions of this section shall not be deemed to affect any industrial dispute pending, on the day immediately preceding the appointed date, before an Industrial Court, or a Labour Tribunal, or an Arbitrator appointed under the Industrial Disputes Act.

Interpretation.

40. In this Act, unless the context otherwise requires—

"appointed date " means the 21st day of March, 1972;

" Commission " means the Co-operative Employees Commission;

" Commissioner" means the Commissioner of Co-operative Development and Registrar of Co-operative Societies;

"co-operative society" means a society registered under the law relating to co-operative societies;

"district" means an administrative district established under the Administrative Districts Act;

"employee" means an employee of a co-operative society within the meaning of this Act;

" Minister " means the Minister to whom the subject or function of co-operative development has been assigned by the President;

"prescribed" means prescribed by regulation made by the Commission.

SCHEDULE

(Section 10)

Oath or affirmation of member of the Commission

I, having been appointed the Chairman/a member of the Co-operative Employees Commission do swear/solemnly and sincerely affirm that I will, without fear or favour, affection or ill-will, discharge the functions of the office of Chairman/Member of the Co-operative Employees Commission and that I will not, directly or indirectly, reveal any matters relating to such functions to any person otherwise than in the course of duty.

Sworn/ Affirmed before me this , day of. 19.

Judge of the Court of Appeal.

Oath or affirmation of officer of the Commission

I, having been called upon to exercise the functions of the Secretary of/an Officer of the Co-operative Employees Commission do swear/solemnly and sincerely affirm that [will not, directly or indirectly, reveal to any person otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of my duties as the Secretary of/an Officer of the Co-operative Employees Commission.

Sworn/Affirmed before me this day of, 19.

Chairman of the Co-operative Employees Commission.

CHAPTER 242

CHANK FISHERIES

Acts
Nos. 8 of 1953,
22 of 1955.

AN ACT TO MAKE PROVISION FOR REGULATING THE TAKING OF CHANKS, BECHE-DE-MER, CORAL, AND SHELLS, FOR REGULATING CHANK FISHERIES AND THE EXPORTATION OF CHANKS, AND OTHER MATTERS INCIDENTAL TO OR CONNECTED WITH THE MATTERS AFORESAID.

[Sections 5, 6, 10, 11, and 17—14th March, 1953.]*

Short title.

1. This Act may be cited as the Chank Fishery Act.

3. (1) No person shall carry out any diving operations for the purpose of taking chanks unless he is the holder of a diving licence issued under this Act and for the time being in force. Licensing of divers.

TAKING OF CHANKS

Registration of vessels.

2. (1) No vessel shall be used or employed in or for the purpose of taking chanks or of any operations for taking chanks, unless it is registered under this Act and the registration card issued in respect thereof is carried in the vessel at the time when it is so used or employed.

(2) No person shall use or employ any other person for the purpose of carrying out diving operations for taking chanks unless that other person is the holder of a diving licence issued under this Act and for the time being in force.

(2) The authority empowered under this Act to register vessels which are to be used or employed for the purpose of taking chanks or of any operations for taking chanks may refuse to register any vessel or cancel the registration of any vessel if he has reasonable cause to believe that such vessel is to be so used or employed, or is being so used or employed, by or on behalf of any person—

(3) The authority empowered under this Act to issue diving licences may refuse such licence to any applicant therefor, or may cancel the licence of any holder thereof, if such authority has reasonable cause to believe that the applicant or holder, as the case may be—

(a) who is neither a citizen of Sri Lanka nor the holder of a valid residence permit; or

(a) is neither a citizen of Sri Lanka nor the holder of a valid residence permit; or

(b) who has been convicted of any offence by reason of his having acted in contravention of any of the provisions of this Act or any regulation made thereunder relating to the taking of chanks.

(b) has been convicted of any offence by reason of his having acted in contravention of any of the provisions of this Act or any regulation made thereunder relating to the taking of chanks.

The decision of such authority to refuse or cancel such licence may be the subject of an appeal to a District Court.

The decision of such authority to refuse or cancel such registration may be the subject of an appeal to a District Court.

4. No person shall use any dredge or other apparatus of a like nature for the purpose of taking chanks. Prohibition of use of dredges.

* Other sections not in operation on 31st December, 1980.

Chank fishing regulations.

5. Regulations may be made providing for-

- (a) the registration of vessels used for the purpose of taking chanks, the fees payable for such registration, the period for which such registration shall be effective and the renewal of such registration;
- (b) the time and manner of the making of applications for diving licences;
- (c) the issue and form of such licences, the fees payable therefor, and the duration and renewal of such licences;
- (d) the declaration of close seasons for the taking of chanks in specified areas and the prohibition of the taking of chanks during the close seasons;
- (e) the regulation, supervision and control of operations for the taking of chanks, including the prohibition of the taking of chanks beyond a specified depth or in specified areas; and
- (f) generally in respect of matters connected with or incidental to the matters mentioned in the preceding paragraphs of this section.

Chank fishery camps.

6. (1) The Minister may, with the concurrence of the Minister in charge of the subject of Health, from time to time by Order published in the Gazette—

- (a) declare any place specified in the Order to be a chank fishery camp, during such period or periods as may be so specified for the purpose of any chank fishery specified therein;
- (b) prescribe the duration of the period of such fishery, and
- (c) appoint any person, by name or by office, to be the superintendent of such camp.

(2) The Minister may make rules—

- (a) for the preservation of order in any chank fishery camp;
- (b) for the prevention of accidents, fire and disease in any such camp ;
- (c) for the regulation of the water supply and sanitation in any such camp; and
- (d) for any other matter which he may deem necessary for the proper administration, regulation and control of any such camp.

(3) Every rule made by the Minister shall be published in the Gazette and shall come into operation upon the date of such publication or upon such later date as may be specified in the rule.

(4) Every rule made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval.

Every rule which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

Every rule so approved shall be as valid and effectual as though it were herein enacted.

(5) Any person who acts in contravention of any provision of any rule made under this section shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding one hundred rupees.

EXPORTATION OF CHANKS AND ROYALTY

7. (1) No person shall export any chanks from Sri Lanka—

- (a) except under the authority of an export licence issued in that behalf by the Controller of Exports on the recommendation of the Director or an officer authorized by the Director in that behalf; or

Control of exportation of chanks.

(b) except from any port declared by the Minister by Order published in the Gazette to be a port from which chanks may be exported.

(2) The Minister may by Order published in the Gazette declare that the provisions of paragraph (b) of subsection (1) shall not apply during the period for which the Order is in force.

Royalty on chanks.

8. (1) There shall be levied and paid on all chanks entered for exportation from Sri Lanka a royalty at such rates as the Minister, with the concurrence of the Minister in charge of the subject of Finance, may from time to time appoint by Order published in the Gazette.

(2) Every such Order shall as soon as convenient be laid before Parliament, and may at any of the next following eight meetings be rescinded by resolution of Parliament, but without prejudice to anything previously done thereunder.

Every such Order which is not so rescinded shall be as valid and effectual as though it were herein enacted.

Application of Customs Ordinance.

9. The provisions of sections 7 and 8 shall be read and construed as one with the Customs Ordinance.

BECHE-DE-MER. CORAL AND SHELLS

Regulations as to beche-de-mer, coral and shells.

10. Regulations may be made for the prohibition or the regulation, supervision and control, of the export and taking of beche-de-mer, coral or shells, whether generally or in any specified area.

SUPPLEMENTARY PROVISIONS

Making of regulations.

11. (1) The Minister may make regulations for or in respect of all matters for which regulations are required or authorized to be made by any of the preceding provisions of this Act and generally for the purpose of carrying out or giving effect to the principles of this Act.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation upon the date of such publication or upon such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval.

Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

Every regulation so approved shall be as valid and effectual as though it were herein enacted.

Offences and penalties.

12. (1) Any person who acts in contravention of any provision of this Act or any regulation made thereunder shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to imprisonment of either description for a period not exceeding six months or to a fine not exceeding five hundred rupees or to both such imprisonment and fine.

(2) Where any vessel is used or employed in contravention of section 2 of this Act or of any regulation made thereunder, the person for the time being in charge of the vessel shall be guilty of an offence punishable under subsection (1) of this section; and the owner of the vessel shall also be guilty of the like offence unless he proves to the satisfaction of the court that the offence was committed without his consent and that he had taken all reasonable steps to prevent such contravention.

Seizure and forfeiture.

13. (1) Any chank, beche-de-mer, coral or shell taken, or any dredge or vessel used or employed, in contravention of any provision of this Act or of any regulation made thereunder, may be seized by any fisheries inspector, or by any police officer or officer of customs, or by any grama seva niladhari, or by any person appointed for that purpose in writing by the Government Agent of the administrative district in which such seizure is made, and when seized shall be conveyed to the customs office nearest to the place of seizure; and anything so seized—

(a) shall be returned to the person from whose possession it was seized forthwith upon the expiration of fourteen days after the seizure, unless a prosecution for the alleged contravention is instituted before the end of that period; or

(b) shall be returned to that person forthwith after the final determination of the prosecution unless it is duly declared to be forfeited to the State under subsection (2).

(2) Any court convicting any person of any offence under this Act may make order declaring that any chank, beche-de-mer, coral, shell, dredge or vessel used in or in connexion with the commission of the offence shall be forfeited to the State ; and anything so ordered to be forfeited may be sold or otherwise disposed of in such manner as the court may direct.

Informer's share.

14. A court imposing a fine under this Act may award to the informer a share not exceeding a moiety of so much of the fine as is actually recovered and realized.

Offences to be cognizable offences.

15. All offences under this Act shall be cognizable offences for the purposes of the application of the provisions of the Code of Criminal Procedure Act, notwithstanding anything contained in the First Schedule of that Act.

interpretation.

16. In this Act, unless the context otherwise requires—

" chanks " includes both live and dead chanks;

"citizen of Sri Lanka" means a person who is a citizen of Sri Lanka under any law for the time being in force in that behalf;

*" coastal waters " means the part of the sea within a distance of three nautical miles from any point on

the coast of Sri Lanka measured from the low-water mark of ordinary spring tides;

" Director" means the Director of Fisheries appointed under any law for the time being in force relating to fisheries;

" fisheries inspector" means any person appointed an inspector of fisheries under any law for the time being in force relating to fisheries and includes a person so appointed a sub-inspector of fisheries;

" immature chank " means any chank of a size capable of being passed through a metal ring two and three-eighth inches in diameter;

" take ", with its grammatical variations and cognate expressions, when used with reference to chanks, includes the fishing for or diving for or collection of chanks;

" valid residence permit" means a temporary or permanent residence permit issued under the Immigrants and Emigrants Act and for the time being in force ; and

" vessel " includes boats, canoes, rafts and craft of every description.

17. The provisions of this Act, Other than the provisions of this section and of sections 5, 6, 10 and 11, shall not come into force until such date as the Minister may appoint by Order published in the Gazette.

Date of coming into force of Act.

* See also section 11 of the Maritime Zones Law.

CHAPTER 317

CONTINGENCIES FUND

Act AN ACT TO CREATE A CONTINGENCIES FUND AND TO PROVIDE FOR MATTERS
 No. 35 of 1979. CONNECTED THEREWITH AND INCIDENTAL THERETO.

[7th September. 1978]

Short title. **1.** This Act may be cited as the Contingencies Fund Act, and shall be deemed, for all purposes, to have come into force on September 7, 1978.

Contingencies Fund. **2.** (1) A Contingencies Fund (hereinafter referred to as "the Fund") is hereby created for use in the circumstances, and in the manner, set out in Article 151 (1) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

(2) A sum of forty million rupees shall be paid out of the Consolidated Fund to the Fund and such sum shall form part of the Fund.

(3) There shall be credited to the Fund all such moneys as may from time to time be voted by Parliament as allocations to the Fund.

Provision relating to advance made from the Contingencies Fund created by Law No. 11 of 1972.

3. (1) Every sum specified in the First Schedule to this Act, being an advance which was made prior to September 7, 1978, from the Contingencies Fund created by the Contingencies Fund Law, No. II of 1972*, and which has not been replaced on the 31st day of May, 1979, shall be deemed to be an advance made from the Fund and shall be replaced in accordance with the provisions of paragraph (3) of Article 151 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

(2) Every sum specified in the Second Schedule to this Act, being an advance which was made prior to September 7, 1978, from the Contingencies Fund created by the Contingencies Fund Law, No. 11 of 1972*, and which was replaced to the Fund operated as a Contingencies Fund during

the period commencing on September 7, 1978, and ending on the 31st day of May, 1979, shall be deemed to have been an advance made from the Fund and to have been replaced to the Fund in accordance with the provisions of paragraph (3) of Article 151 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

4. (1) Every sum specified in the Third Schedule to this Act, being a sum which was paid after September 7, 1978, out of the fund operated as a Contingencies Fund during the period commencing on September 7, 1978, and ending on the 31st day of May, 1979, and which has not been replaced to that fund on the 31st day of May, 1979, shall be deemed to be an advance made from the Fund and shall be replaced in accordance with the provisions of paragraph (3) of Article 151 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Provision relating to sums paid out of the fund which was operated as a Contingencies Fund during the period commencing on September 7, 1978 and ending on the 31st May, 1979.

(2) Every sum specified in the Fourth Schedule to this Act, being a sum which was paid after September 7, 1978, out of the fund operated as a Contingencies Fund during the period commencing on September 7, 1978, and ending on the 31st day of May, 1979, and which has been replaced to that fund shall be deemed to have been an advance made from the Fund and to have been replaced to the Fund in accordance with the provisions of paragraph (3) of Article 151 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Omitted from this Edition.

Cap. 317]**CONTINGENCIES FUND**

The aggregate of the sums specified in the First, Second, Third and Fourth Schedules deemed to have been paid out of the Consolidated Fund to the Fund.

5. The aggregate of the sums specified in the First, Second, Third and Fourth Schedules to this Act shall, when replaced to the Fund, be deemed to have been paid out of the Consolidated Fund to the Fund, as a part of the sum of forty million rupees referred to in subsection (2) of section 2.

6. The Secretary to the Ministry charged with the subject of Finance shall have the custody of the Fund and shall keep accounts relating thereto;

Custody and accounts of the Fund.

Provided, however, that such Secretary may delegate any of his powers and duties in relation to the Fund to any public officer.

[Section 3(1).]**FIRST SCHEDULE**

	Rs.
Advance granted to National Prices Commission	300,000

[Section 3 (2).]**SECOND SCHEDULE**

	Rs.
Grant to the Greater Colombo Economic Commission	10,000,000
Establishment of new Ministry of Higher Education	550,000
Expenses of the Law Commission	315,000
Drought Relief	1,500,000
International Cultural Festival held in Canada	100,000
Donation to the Government of India for relief to Cyclone victims	1,000,000

[Section 4(1).]**THIRD SCHEDULE**

	Rs.
Advance for the establishment of the new Ministry of Coconut Industry	100,000
Advance for the establishment of District Ministries	316,800
Advance for the establishment of two new Kachcheries at Gampaha and Mullativu ..	398,000
Purchase of essential equipment for Colombo International Airport	1,500,000
Advance for preparatory meeting of Ministers of Asian Group 77	1,100,000
Advance for the purchase of technical equipment to Colombo International Airport, Katunayake	1,500,000

[Section 4 (2).]**FOURTH SCHEDULE**

	Rs.
Donation to the Government of India for Relief to flood victims	1,000,000
Contributions to Water Resources Board	1,000,000
Advance for the establishment of the new Ministry of Rural Development	500,000
Advance for the establishment of the new Ministry of Youth Affairs and Employment	500,000
Advance for the establishment of the new Ministry of Rural Industrial Development	500,000
Advance for the establishment of the new Ministry of State	500,000
Advance for the establishment of the new Ministry of Power and Highways	500,000
Advance for the establishment of the new Ministry of Mahaweli Development	500,000
Cyclone Relief 1978	10,000,000

CHAPTER 239

CENTRAL FREIGHT BUREAU

Law
No. 26 of 1973.

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE CENTRAL FREIGHT BUREAU OF SRI LANKA FOR THE PURPOSE OF CENTRALIZATION OF BOOKING OF FREIGHT FROM SRI LANKA TO SUCH FOREIGN PORTS AS MAY BE DETERMINED BY THE MINISTER BY ORDER PUBLISHED IN THE GAZETTE ; TO MAKE PROVISION FOR THE TERMINATION OF THE ACTIVITIES OF THE CEYLON FREIGHT BUREAU SET UP UNDER THE AEGIS OF THE SHIPPERS' COUNCIL OF CEYLON ; TO REGULATE THE POWERS AND DUTIES OF THE BUREAU AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st September. 1973.]

Short title.

1. This Law may be cited as the Central Freight Bureau of Sri Lanka Law.

(6) The Minister may, without assigning a reason, remove any Director from office, and such removal shall not be called in question in any court or tribunal whether by way of appeal or writ or in any other manner whatsoever.

Establishment of the Central Freight Bureau of Sri Lanka.

2. (1) There shall be established a Bureau which shall be called the Central Freight Bureau of Sri Lanka (hereinafter referred to as " the Bureau ").

(7) (a) If a Director vacates his office otherwise than by the expiration of his term of office the Minister may appoint any other person to be a Director in place of the Director who so vacates office.

(2) The Bureau shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

(b) Any Director appointed under paragraph (a) of this subsection, unless he earlier vacates office, shall hold office for the unexpired period of office of the Director whom he succeeds.

Members of the Bureau.

3. The members of the Board of Directors of the Bureau shall be the members of the Bureau.

(8) Where a Director becomes, by reason of illness or other infirmity, or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint a fit person to act in his place for the period of such incapacity or absence.

Board of Directors.

4. (1) The Bureau shall have a Board of Directors consisting of not more than seven members appointed by the Minister.

(2) A person shall be disqualified for being appointed, or continuing, as a Director if he is a Member of Parliament.

(3) Every Director shall hold office for three years unless he earlier resigns, dies, or is removed from office.

5. All or any of the Directors may be paid such remuneration from the funds of the Bureau at such rates as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance. Remuneration of members of the Bureau.

(4) A Director may resign his office by letter addressed to the Minister.

(5) A Director vacating his office by resignation or by the expiration of his term of office shall be eligible for reappointment.

6. A Director who is in any way directly or indirectly interested in any contract made or proposed to be made by the Bureau shall disclose the nature of his interest at a meeting of the Board of Directors. The disclosure shall be recorded in the minutes Members of the Bureau to disclose interest in contract proposed to be made by the Bureau.

of the Board of Directors, and such Director shall not take part in any deliberation or decision of the Board of Directors with respect to that contract:

Provided that the interest which any Director of the Bureau may have in a contract by virtue of his being an officer of a Government department or a public corporation, or a Director of a public corporation, shall be deemed not to be an interest within the meaning of this section.

Quorum for meeting of the Board and regulation of procedure.

7. The quorum for any meeting of the Board of Directors shall be three and subject to the provisions of this Law, the Board of Directors may regulate its own procedure in regard to meetings of such Board and transaction of business at such meetings.

Validity of acts or proceedings of the Board.

8. No act or proceeding of the Board of Directors shall be deemed to be invalid by reason only of the existence of any vacancy among its Directors or defect in the appointment of any Director thereof.

Members of the Board to administer the affairs of the Bureau.

9. The Board of Directors of the Bureau shall administer the affairs, may exercise the powers, and shall perform the duties of the Bureau.

Delegation of powers and duties of the Board.

10. (1) The Board of Directors may delegate to the Chairman, a Director or employee of the Bureau any of its powers and duties.

(2) Every person to whom any power or duty is delegated under subsection (1) shall exercise or perform such power or duty subject to the general or special directions of the Board of Directors.

Chairman of the Board.

11. (1) The Minister shall appoint the Chairman of the Board of Directors from among the Directors.

(2) If the Chairman of the Board of Directors is, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint one of the Directors to act in his place.

(3) The meetings of the Board of Directors shall be presided over by the Chairman appointed under subsection (1), if

present, but if such Chairman is not present at the time fixed for holding a meeting of the Board of Directors, the Directors present shall choose one of their number to preside.

(4) The Chairman may resign the office of the Chairman by letter addressed to the Minister.

(5) The Minister may, without assigning a reason, terminate the appointment of the Chairman and such termination shall not be called in question in any court or tribunal whether by way of appeal or writ or in any other manner whatsoever.

(6) Subject to the provisions of subsections (4) and (5), the term of office of the Chairman shall be the period of his office as a member of the Board of Directors.

(7) The Chairman of any meeting of the Board of Directors shall, in addition to his own vote, have a casting vote.

12. (1) The seal of the Bureau shall be in the custody of the Board of Directors, or any officer of the Bureau authorized in that behalf by such Board.

Seal of the Bureau.

(2) The seal of the Bureau may be altered in such manner as may be determined by the Board of Directors.

(3) The seal of the Bureau shall not be affixed to any instrument or document except in the presence of two Directors both of whom shall sign the instrument or document in token of their presence, or where two Directors are not available, by one Director and an officer authorized specially for such purpose by the Board of Directors.

13. (1) The Minister may give to the Board of Directors directions in writing as to the performance of the duties and the exercise of the powers of the Bureau, and such Board of Directors shall give effect to such directions.

Powers of the Minister in relation to the Bureau.

(2) The Minister may, from time to time, direct in writing the Board of Directors to furnish to him, in such form as

he may require, returns, accounts and other information with respect to the property and business of the Bureau and such Board of Directors shall carry out every such direction.

(3) The Minister may, from time to time, order all or any of the activities of the Bureau to be investigated and reported upon by such person or persons, as he may specify, and upon such order being made, the Board of Directors shall afford all such facilities, and furnish all such information, to the said person or persons as may be necessary to carry out the order.

Objects of the Bureau.

14. The object of the Bureau shall be—

- (a) to provide for a central freight booking office for allocation of freight space on any ocean going vessel, in respect of goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (b) to ensure the aggregation of goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka with a view to ensuring economic loads to ocean going vessels calling at the ports of Sri Lanka;
- (c) to rationalize the frequency of calls and the availability of vessels for the carriage of goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (d) to arrange for the carriage of goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (e) to take, such measures as are necessary to ensure efficient and regular services for the shipment of

goods, produce and merchandise from any port in Sri Lanka to any destination outside Sri Lanka;

- (f) to foster the development of the national merchant fleet;
- (g) to improve port performance, loading rate in the ports of Sri Lanka, the handling of cargo and other matters connected therewith or incidental thereto;
- (h) to negotiate with shipowners and shipping lines, individually or collectively, on matters such as freight rates, surcharges, adequacy, frequency and efficiency of shipping services and matters incidental thereto;
- (i) to enter into agreements with shipowners and shipping lines, individually or collectively, either on its own or on behalf of shippers, and to arrange for the carriage of goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (j) to reduce costs incurred by shippers;
- (k) to obtain most favourable freight rates and terms for the carriage of goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (l) to undertake research on shipping and freight rates ; and
- (m) to do all such other acts or things as are necessary for or incidental to the attainment of the objects hereinbefore mentioned.

15. (1) The Bureau shall have power to do anything necessary for, or conducive or incidental to, the carrying out of its objects.

General powers of the Bureau.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Bureau shall have power—

- (a) to centralize the bookings of freight space in respect of goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (b) to allocate freight on ocean going vessels in such manner as to safeguard and promote the national interest in trade and shipping;
- (c) to determine the vessels on which goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (d) to negotiate with shipowners and shipping lines, individually or collectively, on matters such as freight rates, surcharges, adequacy, frequency and efficiency of shipping services and matters incidental thereto;
- (e) to enter into agreements with shipowners and shipping lines, individually or collectively, either on its own or on behalf of shippers, and arrange for the carriage of all goods, produce and merchandise of whatsoever class or description that shall be shipped from any port in Sri Lanka to any destination outside Sri Lanka;
- (f) to construct, execute, carry out, equip, improve, work, develop, administer, manage or control in the ports of Sri Lanka, with the prior approval of the Port Commissioner,* such works and conveniences as may be necessary to facilitate the shipping of goods, produce and merchandise of whatsoever class or description from such ports;
- (g) to provide and to arrange for the provision of services for warehousing, wharfage and the shipping of all goods, produce and merchandise of whatsoever class or description, with the approval of the Sri Lanka Ports Authority ;
- (h) to transport and warehouse goods, produce and merchandise of whatsoever class or description for shipment from any port of Sri Lanka;
- (i) to levy charges and commissions for any services rendered or facilities afforded by the Bureau to shippers, shipping agents, and shipowners, including the booking, reservation and allocation of freight space;
- (j) to conduct research into all matters affecting the carriage from Sri Lanka of all goods, produce and merchandise of whatsoever class or description;
- (k) to acquire in any manner whatsoever and hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of any immovable or movable property;
- (l) to do anything necessary for the purpose of advancing the skill of persons employed by the Bureau, or the efficiency of the equipment of the Bureau, or the manner in which such equipment is operated, including the provision by the Bureau and the assistance of the provision by others of facilities for training persons required to carry out the work of the Bureau ;
- (m) to enter into and perform, either directly or indirectly, through any officer or agent of the Bureau, all

* See the Sri Lanka Ports Authority Act.

such contracts or agreements, as may be necessary, for the exercise of the powers of the Bureau, and the carrying out of the objects of the Bureau;

- (n) to borrow money from whatsoever source for the purposes of the Bureau, in such manner and upon such security as the Bureau may, with the approval of the Minister, determine;
- (o) to receive and disburse monies for the accomplishment of its objects ;
- (p) to appoint, employ, remunerate and control its officers, servants and agents, and to direct and decide all matters connected with the administration of its affairs;
- (q) to provide welfare and recreational facilities, houses, hostels and other like accommodation, for the persons employed by or serving the Bureau ;
- (r) to make rules in respect of the administration of the affairs of the Bureau;
- (s) to formulate schemes to give effect to the objects of the Bureau.

reservation of freight or cargo space with a shipowner or his agent for the carriage of such goods to such destination;

- (b) no person shall ship such goods to such destination on any ocean going vessel unless freight or cargo space has been booked, reserved or allocated for the carriage of such goods by the Bureau ; and
- (c) any booking, reservation or allocation of freight or cargo space for the carriage of such goods to such destination in contravention of the preceding provisions of this subsection, and any contract of affreightment in respect of such carriage entered into between a shipper and any owner, agent or master of an ocean going vessel shall be deemed for all purposes to be null and void and to have no force or effect whatsoever.

16. (1) The Minister may, from time to time, by Order published in the Gazette, vest in the Bureau, with effect from such date as may be specified in the Order, the exclusive right to book, reserve or allocate freight or cargo space on any ocean going vessel for the carriage of goods other than the goods specified in the Order, from any port in Sri Lanka to any destination specified in the Order.

(2) On and after the date with effect from which the exclusive right to book or reserve freight or cargo space for the carriage of any goods to any destination has been vested in the Bureau under subsection (1)-

- (a) no person other than the Bureau shall make any booking or

17. On and after the date with effect from which the exclusive right to book or reserve freight or cargo space in respect of the carriage of any goods to any destination has been vested in the Bureau under subsection (1) of section 16, no shipper of such goods from any port in Sri Lanka to such destination shall enter into any agreement or arrangement with any shipowner or shipping line, individually or collectively, whereby such shipper undertakes to confine shipment from Sri Lanka of any such goods whether it be for his own account or for the account of his associates or principals, to any ocean going vessel provided by such shipowner or shipping line, on such shipowner or shipping line agreeing to pay such shipper, any sum of money whether by way of rebate, discount or otherwise, or agreeing to carry on a " contract rate ", and any such agreement or arrangement subsisting on the day immediately preceding the aforesaid date, or entered into any time thereafter, shall be deemed for all purposes to be null and void.

Exclusive right to book freight.

and void and to have no force or effect in law whatsoever:

Provided that the preceding provisions of this section shall not apply in the case of the Bureau entering into any such agreement or arrangement for or on behalf of any such shipper.

Charges that may be made by the Bureau.

18. (1) Charges and commissions that may be made by the Bureau for any services rendered or facilities afforded including the booking, reservation and allocation of freight or cargo space by the Bureau to shippers, exporters, shipping agents and shipowners shall be fixed by the Bureau with the approval of the Minister and may be revised from time to time with like approval.

(2) Charges and commissions referred to in subsection (1) shall become payable within thirty days after demand by the Bureau.

(3) Where a shipper, exporter, shipping agent or shipowner fails or refuses to pay, within thirty days after demand, any sum which he is required to pay as a charge or commission under this section, to the Bureau, such sum may, on application made by the Bureau to the Magistrate's Court having jurisdiction over the last known place of business or residence of such shipper, exporter, shipping agent or shipowner, be recovered in like manner as a fine imposed by such Court, notwithstanding that such sum may exceed the amount of the fine which the Court may impose in the exercise of its ordinary jurisdiction.

Penalty for default.

19. (1) Where the Bureau has booked, reserved or allocated freight or cargo space on a» ocean going vessel for shipment of any goods from a port in Sri Lanka to any destination, at the request of a shipper and such shipper fails without reasonable cause in the opinion of the Bureau, to utilize the whole or any part of such freight or cargo space by the shipment of such goods, the Bureau may after giving such shipper an opportunity of being heard either in person or by a representative, impose a penalty not exceeding a sum of one thousand rupees on such shipper.

(2) A shipper aggrieved by a decision of the Bureau under subsection (1) may within ten days, after the communication of such

decision to him, make a written appeal from such decision to the Minister and the Minister may, on any such appeal, confirm, vary or quash the decision from which such appeal is made.

(3) The decision of the Minister upon an appeal and, where no appeal has been preferred under subsection (2) within the time allowed therefor, the decision of the Bureau, shall be final and conclusive and shall not be called in question in any court or tribunal, whether by way of appeal or writ or in any other manner whatsoever.

(4) Where a shipper refuses or fails to pay to the Bureau any sum which he has been required to pay as a penalty under the preceding provisions of this section, such sum may be recovered from him by the Bureau upon an application made by the Bureau to the Magistrate's Court having jurisdiction over the last known place of business or residence of such shipper, in like manner as a fine imposed by that Court, notwithstanding that such sum may exceed the amount of the fine which that Court may in the exercise of its ordinary jurisdiction impose.

(5) Nothing in subsection (4) shall be construed as to require or to authorize a Magistrate before whom an application in terms of that subsection is made, to consider, examine or decide the correctness or legality of such penalty.

20. (1) Where by reason of the neglect indemnity. or default on the part of a shipper to utilize by the shipment of any goods, from any port in Sri Lanka to any destination, the whole or any part of the freight or cargo space booked, reserved or allocated by the Bureau, for such shipper, on any ocean going vessel, the Bureau is called upon to pay any sum as damages or otherwise to the owner of such vessel, the Bureau shall be entitled to be indemnified to the full extent of such sum, by such shipper, on the production by the Bureau of a duly authenticated acknowledgment by or on behalf of the owner of such vessel, of the payment by the Bureau of such sum.

(2) A shipper who within a period of thirty days after being requested by the Bureau, to make payment, fails or neglects

to pay to the Bureau any sum which he is liable to pay, by way of indemnity under subsection (1), shall be guilty of an offence under this Law.

Vesting of property of the Ceylon Freight Bureau in the Central Freight Bureau of Sri Lanka.

21. (1) On and after the appointed date, all property, both movable and immovable, belonging to the Ceylon Freight Bureau, whether held in the name of the said Ceylon Freight Bureau or in the name or names of any person or persons in trust for the said Ceylon Freight Bureau, shall be and the same is hereby vested in the Central Freight Bureau of Sri Lanka constituted under this Law, and the said property both movable and immovable, shall be held by the said Central Freight Bureau of Sri Lanka for the purposes of this Law.

(2) All debts and liabilities of the Ceylon Freight Bureau referred to in subsection (1), existing on the appointed date shall be paid by the Central Freight Bureau of Sri Lanka constituted under this Law, and all debts due-to, and subscriptions, contributions and all sums of money payable by way of penalties to the said Ceylon Freight Bureau on such date, shall be paid to the said Central Freight Bureau of Sri Lanka.

No compensation for loss incurred by reason of vesting exclusive right to reserve space in the Bureau.

22. No person shall be entitled to compensation for any loss incurred by him, whether directly or indirectly, by reason of the fact that the exclusive right to reserve freight or cargo space in any ocean going vessel for the carriage of any goods from any port in Sri Lanka to any destination outside Sri Lanka has been vested in the Bureau.

Application of provisions of the Public Corporations (Financial Control) Act, and the financial year of the Bureau.

23. (1) The provisions of the Public Corporations (Financial Control) Act, shall, *mutatis mutandis*, apply to the financial control and accounts of the Bureau.

(2) The financial year of the Bureau shall be the calendar year.

Appointment of officers and servants of the Bureau.

24. (1) The Bureau shall have the power—

(a) to appoint such officers and servants as may be necessary for the purposes of the Bureau;

(b) to exercise disciplinary control over and dismiss any officer or servant of the Bureau.

(2) The officers and servants of the Bureau shall be remunerated at such rates as the Bureau may determine.

25. All officers and servants of the Bureau shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and servants of Bureau deemed to be public servants.

26. The Bureau shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Bureau deemed to be scheduled institution within the meaning of the Bribery Act.

27. (1) The Bureau may issue directions for the purpose of carrying out or giving effect to the principles and provisions of this Law or the regulations made thereunder, to any shipper of goods from Sri Lanka or to any person or body carrying on business as shipping agent in Sri Lanka. All such persons shall carry out every such direction.

Directions of the Bureau.

(2) Any person who contravenes or fails to comply with any directions issued by the Bureau under this Law shall be guilty of an offence.

28. (1) No suit or prosecution shall lie—

Protection for action taken under this Law or on the direction of the Bureau.

(a) against the Bureau for any act which in good faith is done or is purported to be done by the Bureau under this Law, or

(b) against any member, officer, servant or agent of the Bureau for any act which in good faith is done or is purported to be done by him under this Law or on the direction of the Board of Directors.

(2) Any expense incurred by the Bureau in any suit or prosecution brought by or against the Bureau before any court shall be paid out of the funds of the Bureau and any costs paid to, or recovered by, the Bureau in any such suit or prosecution shall be credited to the funds of the Bureau.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Law or on the direction of the Bureau shall, if the court holds that such act was done in good faith, be paid out of the funds of the Bureau, unless such expense is recovered by him in such suit or prosecution.

29. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as may be convenient after its publication in the Gazette, be laid before Parliament and if Parliament, within the period of one month after the regulation is so laid before it, resolves that the regulation be annulled, the regulation shall thereupon cease to have effect but without prejudice to the validity of anything previously done thereunder. Any regulation not so annulled shall be deemed to be approved by Parliament.

(4) Every regulation made by the Minister shall, when deemed to be approved by Parliament, be as valid and effectual as if herein enacted.

(5) Any person who contravenes the provisions of any regulation made under this Law shall be guilty of an offence under this Law.

30. Any person who is guilty of an offence under this Law shall be liable, on conviction after summary trial before a Magistrate, to imprisonment of either description for a term not exceeding one year or to a fine not exceeding one thousand rupees or to both such imprisonment and such fine.

31. The provisions of this Law shall have effect notwithstanding anything contained in any other written law, and in the event of any conflict or inconsistency between the provisions of this Law and such other law, the provisions of this Law shall prevail.

This Law to prevail in case of conflict with other written law.

32. (1) Where any immovable property is required to be acquired for any purpose of the Bureau and the Minister, by Order published in the Gazette, approves of the proposed acquisition, that property shall be deemed to be required for a public purpose, and may accordingly be acquired under the Land Acquisition Act, and be transferred to the Bureau.

Acquisition of immovable property.

(2) Any sums payable for the acquisition of any immovable property under the Land Acquisition Act for the Bureau shall be paid from the funds of the Bureau.

33. In this Law, unless the context otherwise requires—

Interpretation.

"appointed date" means the 1st day of September, 1973;

"Ceylon Freight Bureau" means the organization established by the Shipper's Council of Ceylon in November 1971, in consequence of letter No. SH/03/053 dated October 16th 1971, and signed by the Permanent Secretary, Ministry of Shipping and Tourism;

"contract rate" means a lower freight rate agreed to between a shipper and a shipowner in respect of carriage of goods by sea in consideration of which such shipper agrees to ship goods exclusively in ships owned by such shipowner;

"goods" means goods, produce or merchandise of whatsoever class or description;

"public corporation" means any corporation, board or other body that was or is established by or under any written law other than the Companies Ordinance*, with capital wholly or partly provided by the Government by way of loan, grant or other form.

* Repealed and replaced by the Companies Act, No. 17 of 1982.

Regulations.

Offences, &c.

CHAPTER 356

COMPULSORY FOOD PRODUCTION (TAX RELIEF)

Ordinance AN ORDINANCE TO PROVIDE FOR THE ALLOWANCE AS REVENUE EXPENDITURE, FOR
 No. 10 of 1943, THE PURPOSE OF INCOME TAX OF CERTAIN ITEMS OF CAPITAL EXPENDITURE
Act INCURRED IN THE COMPULSORY CULTIVATION OF LAND WITH FOODSTUFFS.
 No. 18 of 1965.

[2nd February, 1942.]

Short title.

1. This Ordinance may be cited as the Compulsory Food Production (Tax Relief) Ordinance.

Relief in cases of cultivation of foodstuffs by proprietors of estates.

2. (1) Where land which is not under permanent cultivation is cultivated with foodstuffs by the proprietor of an estate, in order to comply with the provisions of any written law requiring the compulsory cultivation of foodstuffs by proprietors of estates, all capital expenditure incurred for the purpose of the cultivation of foodstuffs on such extent of such land as does not in the aggregate exceed the extent of the area on which that proprietor, in his capacity as such, is so required to cultivate foodstuffs, shall, notwithstanding anything in the Income Tax Ordinance or the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979), but subject to the provisions of section 5, be deemed, for the purposes of each of those enactments to be outgoings and expenses incurred in the production of the profits or income of the agricultural undertaking carried on by that proprietor on that estate.

[§56(1), 18 of 1965.]

(2) Where, for the purpose of complying with the provisions of any written law requiring the compulsory cultivation of foodstuffs by proprietors of estates, foodstuffs are cultivated on any extent of land by the proprietor of an estate on which an agricultural undertaking for the production of coconuts is carried on, the business of the production of foodstuffs on such extent of land shall be deemed to be a business of the like nature as such agricultural undertaking, but shall not be deemed to be of the like nature as any other agricultural undertaking carried on by that proprietor.

3. Where land which is not under permanent cultivation is cultivated with foodstuffs by any approved company, all capital expenditure incurred for the purpose of the cultivation of foodstuffs on such land shall, notwithstanding anything in the Income Tax Ordinance or the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979), but subject to the provisions of section 5, be deemed, for the purposes of each of those enactments to be outgoings and expenses incurred in the production of the profits or income of the agricultural undertaking carried on by such company on such land.

Relief in cases of cultivation of foodstuffs by approved companies.

[§56(1), 18 of 1965.]

***4.** (1) Where land which is not under permanent cultivation is cultivated with foodstuffs by any approved undertaking, and exemption from the liability to cultivate foodstuffs is, under the provisions of any written law requiring the compulsory cultivation of foodstuffs by proprietors of estates, for the time being in force in respect of any proprietor or proprietors by whom contributions have been made towards the capital of such undertaking, the following provisions shall, subject to the provisions of section 5, have effect, notwithstanding anything in the Income Tax Ordinance, or the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979) :—

Relief in cases of cultivation of foodstuffs by approved undertakings.

[§ 56 (1), 18 of 1965.]

(a) There shall be computed the amount of all capital expenditure incurred by the undertaking for the purpose of the cultivation of foodstuffs on such extent of such land as does not, in the aggregate, exceed the extent of the area or areas in respect of which such exemption

* Subsections (2) and (3) are omitted—See List of Enactments omitted from the Revised Edition.

has been granted to such proprietor or all such proprietors, as the case may be.

(b) There shall be computed in the case of each such proprietor the amount which bears, to the amount of the capital expenditure computed under paragraph (a), the same proportion as the aggregate extent of the area in respect of which such exemption has been granted to that proprietor bears to the extent of land in respect of which the amount of such capital expenditure is computed under that paragraph.

(c) The amount computed under paragraph (b) in the case of each such proprietor shall be deemed, for the purposes of the Income Tax Ordinance, the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979), to be outgoings and expenses incurred in the production of the profits or income of that proprietor from the business carried on by that undertaking and shall, accordingly, be deducted from the share of the divisible profit of that proprietor as ascertained under section 30 of the Income Tax Ordinance or under section 52 of the Inland Revenue Act, No. 4 of 1963, or under section 65 of the Inland Revenue Act (No. 28 of 1979), or added to the share of the divisible loss of that proprietor as so ascertained.

[§56(1), 18 of 1965.]

Provisions applicable where cultivation of foodstuffs is discontinued, &c.

5. (1) The provisions of section 2 or section 3 or section 4, as the case may be, shall not apply, and shall be deemed not to have applied at any time, in relation to any land, if the cultivation of foodstuffs on that

land is discontinued before the expiry of a period of three years from the commencement of the clearing of that land for cultivation or if the land is sold or transferred before the expiry of that period.

(2) Where any capital expenditure incurred in the clearing of any land and in the cultivation of foodstuffs thereon has, under the preceding provisions of this Ordinance, been treated as outgoings and expenses in the assessment of the profits or income of any person or of any business for any year of assessment or accounting period, and it appears to an Assessor that the cultivation of foodstuffs on that land has been discontinued, or that the land has been sold or transferred, before the expiry of a period of three years from the date of the commencement of the clearing of that land for cultivation, the Assessor may at any time assess such person at the amount or additional amount at which, according to the Assessor's judgment, such person would have been assessed if such expenditure had not been treated as outgoings or expenses as aforesaid; and such assessment may be made notwithstanding the expiration of the period of three years prescribed by section 69 of the Income Tax Ordinance or of the period of six years prescribed by section 94 of the Inland Revenue Act, No. 4 of 1963, or of the period of three years prescribed by section 115 of the Inland Revenue Act (No. 28 of 1979), and the provisions of that Ordinance or of those Acts, as the case may be, as to notice of assessment, appeal, and other proceedings shall apply to such assessment or additional assessment and to the tax charged thereunder.*

[§56(1), 18 of 1965.]

• Sections 6, 7 and 8 are omitted—Sec List of Enactments omitted from the Revised Edition.

CHAPTER 552

CORNEAL GRAFTING

Act No. 38 of 1955. AN ACT TO MAKE PROVISION WITH RESPECT TO THE USE OF EYES OF DECEASED PERSONS FOR THERAPEUTIC PURPOSES.

[12th November, 1955.]

Short title.

1. This Act may be cited as the Corneal Grafting Act.

eyes from the body and their use for therapeutic purposes; but no such removal shall be effected except by a medical practitioner registered under the Medical Ordinance, who must have satisfied himself by a personal examination of the body that life is extinct.

Removal of eyes of deceased persons.

2. (1) If any person, either in writing at any time or orally in the presence of two or more witnesses during his last illness, has expressed a request that his eyes be used for therapeutic purposes after his death, the party lawfully in possession of his body after his death may, unless that party has reason to believe that the request was subsequently withdrawn, authorize the removal of the eyes from the body for use for those purposes.

(4) Authority for the removal of eyes shall not be given under this section if the party empowered to give such authority has reason to believe that an inquest may be required to be held on the body.

(2) Without prejudice to the foregoing subsection, the party lawfully in possession of the body of a deceased person may authorize the removal of the eyes from the body for use for therapeutic purposes unless that party has reason to believe—

(5) No authority shall be given under this section in respect of the body of a deceased person by a person entrusted by another person with the body for the purpose only of its interment or cremation.

- (a) that the deceased had expressed an objection to his eyes being so dealt with after his death, and had not withdrawn it; or
(b) that the surviving spouse or any surviving relative of the deceased objects to the deceased's eyes being so dealt with.

(6) In the case of a body lying in a hospital, any authority under this section may be given on behalf of the person having the control and management of the hospital by any officer or person designated in that behalf by the first-mentioned person.

(3) An authority given under this section in respect of any deceased person shall be sufficient warrant for the removal of the

(7) Nothing in this section shall be construed as rendering unlawful any dealing with the body, or any part of the body, of a deceased person which would have been lawful if this Act had not been passed.

CHAPTER 444

COLOMBO GOSPEL TABERNACLE

Law A LAW TO INCORPORATE THE COLOMBO GOSPEL TABERNACLE.
 No. 45 of 1975.

[5th December, 1975.]

- 1.** This Law may be cited as the Colombo Gospel Tabernacle (Incorporation) Law.
- 2.** From and after the date of commencement of this Law, such and so many persons as now are members of the Colombo Gospel Tabernacle (hereinafter referred to as "the Tabernacle") or shall hereafter be admitted members of the Corporation hereby constituted, shall be and become a corporation with perpetual succession under the name and style of "The Colombo Gospel Tabernacle" (hereinafter referred to as "the Corporation") and by that name shall and may sue and be sued in all Courts, with full power and authority to have and to use a common seal and to change and alter the same at its will and pleasure.
- 3.** The general objects of the Corporation shall be to continue the objects adopted by the Tabernacle on 30th January, 1937, and for such purpose, among other activities—
- (a) to spread the Gospel of Jesus Christ by means of—
 - (i) holding regular Christian worship, devotional and public meetings, and conferences, lectures, exhibitions and classes of an educational and spiritual character,
 - (ii) printing, publishing and distributing literature, magazines and newspapers,
 - (iii) conducting radio broadcasts and correspondence courses, and
 - (iv) establishing Bible colleges, orphanages and hospitals; and
 - (6) to do all such other things as are incidental or conducive to the attainment of the above objects.
- 4.** The Corporation shall have the power to do, perform and execute all such acts, matters and things whatsoever as are necessary or desirable for the promotion or furtherance of the objects of the Corporation or any one of them including the power to open, operate and close bank accounts, to borrow or raise moneys with or without security, and to engage, employ and dismiss personnel required for the carrying out of the objects of the Corporation.
- 5.** (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation, be administered by a Board of Deacons, consisting of the Pastor, the Honorary Secretary, the Honorary Treasurer and such other persons as may be provided for in such rules and elected in accordance therewith.
- (2) The first Board of Deacons of the Corporation shall be the Board of Deacons of the Tabernacle holding office on the date of commencement of this Law.
- 6.** (1) It shall be lawful for the Corporation, from time to time, at any general meeting of the members and by a majority of votes, to make rules for the admission, withdrawal, or expulsion of members, for the conduct of the duties of the Board of Deacons and of the various officers, agents and servants of the Corporation, for the procedure in the transaction of business, and otherwise

General powers of the Corporation.

Board of Deacons.

Rules of the Corporation.

generally for the management of the affairs of the Corporation and the accomplishment of its objects. Such rules when made may, at a like meeting, be altered, added to, amended, or cancelled, subject however to the requirements of subsection (2).

(2) No rule of the Corporation for the time being in force nor any rule which may hereafter be passed shall be altered, added to, amended or cancelled, except by a vote of two-thirds of at least one-half of the voting membership at a general meeting and provided that notice of such alteration, addition, amendment or cancellation shall have been posted in the bulletin board at least two weeks prior to such meeting and also announced at two main devotional services of a regular nature.

(3) The rules of the Tabernacle in force on the date of commencement of this Law shall be deemed to be the rules of the Corporation made under this section.

(4) All members of the Corporation shall be subject to the rules of the Corporation for the time being in force.

Debts due by and payable to the Tabernacle.

7. All debts and liabilities of the Tabernacle existing at the time of the coming into operation of this Law shall be

paid by the Corporation hereby constituted, and all debts due to and subscriptions and contributions payable to the Tabernacle shall be paid to the Corporation for the purposes of this Law.

8. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of the Honorary Secretary and another member of the Board of Deacons, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

How the seal of the Corporation is to be affixed.

9. The Corporation shall be capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise, and all such property shall be held by the Corporation for the purposes of this Law and subject to the rules in force for the time being of the Corporation, with full power to sell, mortgage, lease, exchange, or otherwise dispose of the same.

Corporation may hold properly movable and immovable.

10. Nothing in this Law contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Law and others claiming by, from, or under them.

Saving of the rights of the Republic and others.

CHAPTER 505

CEYLON MOOR LADIES' UNION

Act AN ACT TO INCORPORATE AN ASSOCIATION KNOWN AS THE CEYLON MOOR LADIES'
 No. 27 of 1968. UNION.

[22nd June, 1968.]

Short title. **1.** This Act may be cited as the Ceylon Moor Ladies' Union Act.

(d) to make provision for the giving of poor Muslim girls in marriage ; and

Incorporation of the Ceylon Moor Ladies' Union. **2.** From and after the date of commencement of this Act, the Patroness, Vice-Patronesses, President, Vice-Presidents, members of the Committee of the Ceylon Moor Ladies' Union (hereinafter referred to as the " Union ") and such and so many persons who are women above the age of eighteen years and professing the Islamic faith as are or as may hereafter be enrolled as members of the Union shall become and be a body corporate (hereinafter referred to as " the Corporation ") with perpetual succession, a common seal, and the name " The Ceylon Moor Ladies' Union ". The Corporation may sue and be sued by that name.

(e) to provide facilities for the relief of poverty, distress, sickness, unemployment and illiteracy among, generally to ameliorate the social and economic conditions, and to promote the religious and cultural welfare of, Muslim women in Sri Lanka.

General objects. **3.** The general objects for which the Corporation is constituted are hereby declared to be—

4. (1) The control and management of the affairs of the Union, including the power to expend the funds of the Union and to deal with, dispose of, or acquire by purchase, exchange, grant, gift, devise or bequest, any immovable or movable property in the name of the Union shall, subject to this Act and to the rules for the time being in force, be vested in a Committee of Management, constituted as hereinafter provided. Control and management of the Union.

(a) to collect funds for and the establishment and management of orphanages for Muslims in Sri Lanka;

(2) The Committee of Management (hereinafter referred to as the " Committee ") of the Union shall consist of the President, the Vice-Presidents, the Honorary Secretary and the Honorary Treasurer of the Union and four members elected in accordance with the rules, at each general meeting of the Union.

(b) to collect funds for and the establishment and management of industrial homes or centres in Sri Lanka to provide employment facilities and training to poor and destitute Muslim women and young girls;

(c) to promote the spiritual, intellectual, social and physical welfare of the members of the Union, as enjoined by Islam, and the encouragement of its practical observance;

(3) The President of the Corporation shall preside at all meetings of the Corporation and in his absence one of the Vice-Presidents may preside, and in the absence of any of the Vice-Presidents, any member duly elected may preside at such meeting.

(4) The first Committee shall consist of—

- Mrs. M. Ghouse Mohideen (President)
- Mrs. Aysha Rauf (Vice-President)
- Mrs. M. I. M. Haniffa (Vice-President)
- Mrs. A. B. M. Sallih (Vice-President)
- Mrs. O. L. M. Mashood (Vice-President)
- Mrs. M. N. Haniffa (Hony. Secretary)
- Mrs. A. H. Mohideen (Hony. Treasurer)
- Mrs. M. H. M. Yusuf
- Mrs. M. H. M. Mohideen
- Mrs. M. S. Naina Marikar
- Mrs. M. A. S- M. Mohideen

Union to make rules.

5. (1) It shall be lawful for the Union from time to time at any general meeting of the members and by the votes of the majority of the members present at such meeting to make rules for the following purposes:—

- (a) the admission, withdrawal or expulsion of members;
- (b) the powers, conduct, functions, and duties of the Committee, and of the various officers, agents and servants of the Union;
- (c) the procedure to be observed at meetings, and in convening meetings, and in the transaction of business of the Union;
- (d) the administration and management of the property of the Union and of all other property that may be vested in it;
- (e) the management of the affairs of the Union and the achievement of its objects;
- (f) the fixing of the rate of subscriptions payable by members and the collection of such subscriptions; and
- (g) the custody of the seal of the Union.

(2) No rule made at any general meeting shall be altered, amended or cancelled except by the votes of a majority of two-thirds of the members present and voting at a subsequent general meeting.

6. (1) The Committee may appoint a Board of Trustees, consisting of three Trustees-Ceylon Moors of standing and professing the Islamic faith, with power and authority to have and use the common seal, and in the name of the Union to receive, take, hold, manage or dispose of property, movable or immovable. In the exercise of such power and authority the Trustees shall be subject to the direction and control of the Committee.

(2) A Trustee may be removed from office by a resolution carried by the votes of two-thirds of the members present and voting at a general meeting convened for the purpose.

7. The Committee may, if it considers it expedient, nominate and appoint any person to represent the Union in any court of law or at any inquiry or interview, and any such nomination and appointment shall be limited to a particular case or matter and shall not be in the nature of a general appointment. Representative of Union in court of law.

8. It shall be lawful for the Committee, from time to time, at any meeting of the Committee and by the votes of the majority of members to make rules, not inconsistent with the rules made by the members at any general meeting, for the conduct of the duties and functions of the Committee, of the Trustees, office-bearers, officers and servants of the Committee, for the procedure in the transaction of business, and otherwise generally for the management of the affairs and the accomplishment of the objects of the Committee. Such rules when made may be added to, varied, amended or rescinded in like manner at any subsequent meeting of the Committee. Committee to make rules'&c-

9. Nothing in this Act shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act, and those claiming by, from, or under them. Saving rights of the Republic and other

CHAPTER 500

CEYLON MUSLIM SCHOLARSHIP FUND

Ordinance AN ORDINANCE TO INCORPORATE THE BOARD OF TRUSTEES OF THE CEYLON
 No. 19 of 1946. MUSLIM SCHOLARSHIP FUND.

[16th July, 1946.]

Short title. **1.** This Ordinance may be cited as the Board of Trustees of the Ceylon Muslim Scholarship Fund Ordinance.

Incorporation of the Board of Trustees of the Ceylon Muslim Scholarship Fund. **2.** (1) The persons specified in the Schedule* hereto who are the present members of the Board of Trustees of the Ceylon Muslim Scholarship Fund and persons who are hereafter admitted to membership of the board in accordance with rules made under this Ordinance shall be and are hereby constituted a body politic and corporate with the name of the " Board of Trustees of the Ceylon Muslim Scholarship Fund ".

(2) The Board of Trustees of the Ceylon Muslim Scholarship Fund (hereinafter referred to as " the board ") shall, in the said name and for the purposes herein mentioned, have perpetual succession, and may by the said name sue and be sued, plead and be impleaded, answer and be answered in all courts, and shall have a common seal with power to break, alter and renew the same at its discretion.

Objects of the board. **3.** (1) The objects for which the board is incorporated are hereby declared to be—

(a) the collection of funds for the purpose of providing financial assistance to necessitous and deserving Muslim students, so as to enable them to prosecute their studies satisfactorily and without hindrance in Sri Lanka or abroad, and

(b) the grant of payments, subject to prescribed conditions, to such students.

(2) In this section, the expression " payments ", includes—

(a) fees payable to any school or university for the instruction of the students;

(b) fees payable, for the board and lodging of students, to any school, university or hostel attached to such school or university or to any person in charge of a hotel, hostel or lodging-house, in case such hotel, hostel or lodging-house has been approved by the committee of management;

(c) payments for the purchase of books and other educational equipment, approved by the committee of management;

(d) payments for the purchase of articles of clothing, approved by the committee of management;

(e) such subsistence allowances as may be approved by the committee of management to such dependants of students as may be selected by the committee;

(f) medical expenses approved by the committee of management; and

(g) any other payments which have been prescribed by rules under this Ordinance.

4. (1) Subject to this Ordinance and such rules as may be made under section 6, the affairs of the board shall be managed by

Committee of management

* Schedule omitted.—Private enactment.

a committee of management consisting of nine persons elected by the board in the prescribed manner.

(2) Subject to this Ordinance and to such rules as may be made in that behalf, it shall be the duty of the committee of management to select the students who are to receive payments under this Ordinance.

Power to hold property

5. (1) Subject to the provisions of subsection (2), the board shall be capable in law—

- (a) of acquiring at all times hereafter all property movable or immovable, whether by purchase, gift, devise or legacy;
- (b) of investing the funds of the board ;
- (c) of erecting any building on any land vested, acquired or held by the board; and
- (d) of selling, granting, conveying, assigning or otherwise disposing of any of its properties.

(2) The board shall not exercise any power conferred on it by paragraphs (b), (c) or (d) of subsection (1), unless the board, by a resolution which has been passed at a meeting by a majority which is not less than two-thirds of the number of members present and voting at such meeting, determines that it shall exercise such power, and the power shall be exercised in such manner and subject to such conditions, as may be specified in the resolution.

Rules.

6. It shall be lawful for the board, at any meeting specially called for the purpose and by a majority which is not less than two-thirds of the number of members present and voting at such meeting, to make such rules not inconsistent with this Ordinance as the board may deem expedient in respect of all or any of the following matters:—

- (a) matters stated or required by this Ordinance to be prescribed ;

(b) the appointment and removal of members of the board and committee of management;

(c) the tenure of office of such members;

(d) the procedure to be followed by the board and the committee of management generally in the transaction of business and in particular in the conduct of meetings;

(e) the payment, out of the funds of the board, of expenses incurred by the board and the committee of management in carrying out the provisions of this Ordinance ;

(f) the opening of bank accounts, and the operation of such accounts;

(g) matters connected with, or incidental to, the grant of payments to students; and

(h) generally for carrying out, and giving effect to, the principles of this Ordinance.

7. The seal of the board shall not be affixed to any instrument whatsoever except in the presence of the chairman, and one other member, of the committee of management, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

Seal of the board-

8. Nothing in this Ordinance contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or any other persons, except such as are mentioned in this Ordinance and those claiming by, from, or under them.

Saving of rights of the Republic and others.

CHAPTER 511

**CEYLON NATIONAL ASSOCIATION FOR
THE PREVENTION OF TUBERCULOSIS**

Act
No. 11 of 1957.

AN ACT TO INCORPORATE THE CEYLON NATIONAL ASSOCIATION FOR THE
PREVENTION OF TUBERCULOSIS.

[18th March, 1957.]

Short title.

I. This Act may be cited as the Ceylon National Association for the Prevention of Tuberculosis (Incorporation) Act.

(c) may sell, mortgage, lease, exchange or otherwise dispose of any of its properties.

Incorporation of the Ceylon National Association for the Prevention of Tuberculosis.

2. The persons who, at the time of the coming into operation of this Act, are members of the Ceylon National Association for the Prevention of Tuberculosis (hereinafter referred to as "the association") and such other persons as are hereafter enrolled as members of the association shall be a body corporate (hereinafter referred to as "the corporation") with perpetual succession, a common seal and the name "The Ceylon National Association for the Prevention of Tuberculosis". The corporation may sue and be sued by that name.

6. All debts and liabilities of the association existing at the time of coming into operation of this Act shall be paid and discharged by the corporation, and all debts due to and subscriptions and contributions payable to the association shall be paid to the corporation.

Sums payable by or to the associated to the corporation

Object of the corporation.

3. The object of the corporation shall be to assist in every possible way in the prevention and control of tuberculosis in Sri Lanka.

7. The seal of the corporation may be altered at the pleasure of the corporation. It shall not be affixed to any instrument whatsoever except in the presence of two of the elected members of the council of the corporation who shall sign their names on the instrument in token of their presence and such signing shall be independent of the signing of any person as a witness.

Seal of the corporation.

The council of the corporation.

4. The affairs of the corporation shall, subject to the rules in force for the time being of the corporation, be administered by the council elected in accordance with such rules.

8. (1) The corporation may from time to time, at a special general meeting of the members of which not less than twenty-eight days' notice shall be given to the members and by a majority of votes which shall be not less than two-thirds of the members voting at the meeting, make rules relating to the admission, suspension or expulsion of members, the duties of the officers of the corporation, the procedure in the transaction of business and generally the management of the affairs of the corporation and the accomplishment of its object.

Rules.

The corporation may acquire, hold, and dispose of property.

5. The corporation—

(a) may acquire and hold any movable or immovable property by right of purchase, grant, gift, testamentary disposition or otherwise,

(b) shall hold any property subject to the rules for the time being of the corporation, and

**CEYLON NATIONAL ASSOCIATION FOR
THE PREVENTION OF TUBERCULOSIS**

(2) Subject to the provisions of subsection (3), the rules set out in the Schedule* to this Act shall be the rules of the corporation.

(3) Any rule of the corporation may be amended or rescinded in like manner as a rule may be made under subsection (1).

(4) The members of the corporation shall be subject to the rules in force for the time being of the corporation.

9. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body corporate, or of any other persons, except such as are mentioned in this Act and those claiming from or under them. Saving of the rights of the Republic and other.

CHAPTER 107

CONTRIBUTORY NEGLIGENCE AND JOINT WRONGDOERS

Act No. 12 of 1968. AN ACT TO AMEND THE LAW RELATING TO CONTRIBUTORY NEGLIGENCE AND JOINT WRONGDOERS, AND TO PROVIDE FOR MATTERS CONNECTED WITH, OR INCIDENTAL TO, THE MATTERS AFORESAID.

[17th April, 1968.]

Short title. 1. This Act may be cited as the Law Reform (Contributory Negligence and Joint Wrongdoers) Act.

(3) Where, in any case to which the provisions of subsection (I) apply, one of the persons at fault avoids liability to any other such person or his personal representative by pleading any written law prescribing the period wherein notice of action should have been given, or limiting the time within which proceedings may be taken, such person shall not be entitled to recover any damages from such other person or his personal representative by virtue of the operation of the provisions of the said subsection.

PART I

CONTRIBUTORY NEGLIGENCE

This Part of this Act to have effect subject to section 7. 2. The provisions of this Part of this Act, other than this section, shall have effect subject to the provisions of section 7, and accordingly shall be so read, construed and applied.

PART II

DELICTS

Contributory negligence. 3. (1) (a) Where any person suffers damage which is caused partly by his own fault and partly by the fault of any other person, a claim in respect of that damage shall not be defeated by reason only of the fault of the claimant, but the damages recoverable in respect thereof shall be reduced by the court to such extent as the court may deem just and equitable having regard to the degree in which the claimant was at fault in relation to the damage.

4. The provisions of this Part of this Act, other than this section, shall have effect subject to the provisions of section 7, and accordingly shall be so read, construed and applied.

This Part of this Act to have effect subject to section 7.

(b) Damage shall, for the purpose of paragraph (a) of this subsection, be regarded as having been caused by a person's fault, notwithstanding the fact that any other person had an opportunity of avoiding the consequences thereof and negligently failed to do so.

5. (1) Where it is alleged that two or more persons are jointly or severally, or jointly and severally, liable in delict to any other person (hereinafter referred to as the "plaintiff") for the same damage, such persons (hereinafter referred to as the "Joint wrongdoers") may be sued in the same action.

Joint and severalliability indelict.

(2) Notice of any action may at any time be given—

(2) Where damages are recoverable by any person by virtue of the operation of the provisions of subsection (I) subject to such reduction as is therein mentioned, the court shall find and record the total damages which would have been recoverable if the claimant had not been at fault.

- (a) by the plaintiff; or
(b) by any joint wrongdoer who is sued in that action, to any other joint wrongdoer who is not so sued and who may, upon receipt of such notice, intervene as a defendant in that action.

CONTRIBUTORY NEGLIGENCE AND JOINT WRONGDOERS [Cap.107

(3) The court may, on the application of the plaintiff or any joint wrongdoer in any action, order that separate trials shall be held, or make such other order on such application as it may consider just and expedient.

(4) (a) Where a joint wrongdoer is not sued in any action instituted against any other joint wrongdoer and no notice is given to him in terms of paragraph (a) of subsection (2), the plaintiff shall not thereafter sue him, except with the leave of the court on good cause shown as to why notice was not given as aforesaid.

(b) Where no notice, under paragraph (a) or (b) of subsection (2), is given to a joint wrongdoer who is not sued by the plaintiff, no proceedings for a contribution shall be instituted against him under subsection (6) or (7) by any other joint wrongdoer, except with the leave of the court on good cause shown as to why notice was not given to him under the said paragraph (b).

(5) In any subsequent action against another joint wrongdoer, any amount recovered from any joint wrongdoer in a former action shall be deemed to have been applied towards the payment of the costs awarded in the former action in priority to the liquidation of the damages awarded in that action.

(6) (a) Where judgment in any action is given against any joint wrongdoer for the full amount of the damage suffered by the plaintiff, the said joint wrongdoer may, if the judgment debt has been paid in full, but subject to the provisions of paragraph (b) of subsection (4), recover from any other joint wrongdoer a contribution in respect of his responsibility for such damage of such an amount as the court may deem just and equitable having regard to the degree in which that other joint wrongdoer was at fault in relation to the damage suffered by the plaintiff, and to the damages awarded.

(b) The period of prescription in respect of a claim for a contribution shall be twelve months calculated from the date of the Judgment in respect of which a contribution

is claimed or, where an appeal is made against such judgment, from the date of the final judgment on appeal:

Provided that if, in the case of any joint wrongdoer, the period of prescription in relation to any action which may be instituted against him by the plaintiff, is governed by a law which prescribes a period of less than twelve months as the period within which legal proceedings shall be instituted against him or within which notice shall be given that proceedings will be instituted against him, the provisions of such law shall apply *mutatis mutandis* in relation to any action for a contribution by a joint wrongdoer, the period or periods concerned being calculated from the date of the judgment as aforesaid instead of from the date of the original cause of action.

(c) Any joint wrongdoer from whom a contribution is claimed may raise against any other joint wrongdoer who claims the contribution any defence which such other joint wrongdoer could have raised against the plaintiff.

(7) (o) Where judgment in any action is given against one or more joint wrongdoers in respect of the damage suffered by the plaintiff and any joint wrongdoer, in pursuance of such judgment,—

(i) pays to the plaintiff an amount in respect of his responsibility for such damage; and [^]

(ii) the amount so paid is in excess of the amount (hereinafter referred to as the "amount apportioned to the first-mentioned joint wrongdoer") which the court deems just and equitable, having regard to the degree in which he was at fault in relation to the damage suffered by the plaintiff and to the full amount of the damages awarded to the plaintiff,

such joint wrongdoer may, subject to the provisions of paragraph (b) of subsection (4), recover from any other joint wrongdoer a contribution in respect of such other wrongdoer's responsibility for such damage

of an amount not exceeding so much of the amount which the court deems just and equitable, having regard to the degree in which such other joint wrongdoer was at fault in relation to the damage suffered by the plaintiff and to the full amount of the damages awarded to the plaintiff, as has not been paid by such other wrongdoer to the plaintiff or to any other wrongdoer, or so much of the amount paid by the first-mentioned wrongdoer as exceeds the amount apportioned to him, whichever is less.

(b) The provisions of paragraphs (b) and (c) of subsection (6) shall apply *mutatis mutandis* to any claim for a contribution under paragraph (a) of this subsection.

(8) (a) Where judgment in any action is given in favour of the plaintiff against two or more joint wrongdoers, the court—

- (i) may order that such joint wrongdoers pay the amount of the damages awarded jointly and severally, the one paying and the other being absolved;
- (ii) may, if it is satisfied that all the joint wrongdoers have been joined in the action, apportion the damages awarded against the said joint wrongdoers in such proportions as the court may deem just and equitable having regard to the degree in which each joint wrongdoer was at fault in relation to the damage suffered by the plaintiff, and give judgment separately against each joint wrongdoer for the amount so apportioned:

Provided that any amount which the plaintiff is unable to recover from any joint wrongdoer under a judgment so given (including any costs incurred by the plaintiff in an unsuccessful attempt to recover the said amount from the said joint wrongdoer), whether by reason of the said joint wrongdoer's insolvency or otherwise, may be recovered by the plaintiff from the other joint wrongdoer, or, if there are two or more other joint wrongdoers, from those other joint wrongdoers in such proportions as

the court may deem just and equitable having regard to the degree in which each of such other joint wrongdoers was at fault in relation to the damage suffered by the plaintiff;

- (iii) may, where it gives judgment against the joint wrongdoers jointly and severally as aforesaid, at the request of any one of the joint wrongdoers, apportion, for the purposes of paragraph (&), the damages payable by the joint wrongdoers, *inter se*, amongst the joint wrongdoers, in such proportions as the court may deem just and equitable having regard to the degree in which each joint wrongdoer was at fault in relation to the damage suffered by the plaintiff;
- (iv) may make such order as to costs as it may consider just, including an order that the joint wrongdoers against whom it gives judgment shall pay the plaintiff's costs jointly and severally, the one paying and the other being absolved, and that, if one of the unsuccessful joint wrongdoers pays more than his *pro rata* share of the plaintiff's costs, he shall be entitled to recover from each of the other unsuccessful joint wrongdoers his *pro rata* share of such excess.

(b) Any joint wrongdoer who pays more than the amount apportioned to him under sub-paragraph (iii) of paragraph (a) of this subsection may recover from any joint wrongdoer who has not paid the whole or any portion of the amount so apportioned to him, a contribution of an amount not exceeding so much of the amount so apportioned to the last-mentioned joint wrongdoer as has not been paid by him, or so much of the amount paid by the first-mentioned joint wrongdoer as exceeds the amount so apportioned to him, whichever is less.

(c) The provisions of paragraph (b) of subsection (6) shall apply *mutatis mutandis* to any claim for a contribution under paragraph (b) of this subsection.

(9) Where judgment is given in favour of any joint wrongdoer, the court may make such order as to costs as it may consider just, including an order—

- (a) that the plaintiff pay such joint wrongdoer's costs; or
- (b) that the unsuccessful joint wrongdoers pay the costs of the successful joint wrongdoer jointly and severally, the one paying and the other being absolved, and that, if one of the unsuccessful joint wrongdoers pays more than his *pro rata* share of the costs of the successful joint wrongdoer, he shall be entitled to recover from each of the other unsuccessful joint wrongdoers his *pro rata* share of such excess, and that, if the successful joint wrongdoer is unable to recover the whole or any part of his costs from the unsuccessful joint wrongdoers, he shall be entitled to recover from the plaintiff such part of his costs as he is unable to recover from the unsuccessful joint wrongdoers.

(10) Where, by reason of the terms of an agreement between a joint wrongdoer and the plaintiff, such wrongdoer is exempt from liability for the damage suffered by the plaintiff or his liability therefor is limited to an agreed amount, then, so much of that portion of the damages which, but for the said agreement and the provisions of paragraph (c) of subsection (6) or paragraph (b) of subsection (7), could have been recovered from such wrongdoer in terms of subsection (6) or (7), or could have been apportioned to him in terms of subparagraph (ii) or (iii) of paragraph (a) of subsection (8), as exceeds the amount, if any, for which he is liable in terms of the said agreement, shall not be recoverable by the plaintiff from any other joint wrongdoer.

(11) (a) Whenever a joint wrongdoer, who is entitled under any provisions of this section to recover a contribution from any other joint wrongdoer, is unable to recover that contribution or any amount thereof from that other joint wrongdoer, whether by reason of the latter's insolvency or otherwise, he may recover from any other joint wrongdoer such portion of that contribution, or that amount thereof, as the court may deem just and equitable having

regard to the degree in which that other joint wrongdoer was at fault in relation to the damage suffered by the plaintiff and to the full amount of the said contribution or the said amount thereof, as the case may be.

(b) Any costs incurred by a joint wrongdoer in an unsuccessful attempt to recover any contribution from any other joint wrongdoer shall, for the purpose of paragraph (a) of this subsection, be added to the amount of that contribution.

(12) Where any joint wrongdoer agrees to pay to the plaintiff a sum of money in full settlement of the plaintiff's claim, the provisions of subsection (6) shall apply *mutatis mutandis* as if judgment had been given by a competent court against such joint wrongdoer for that sum of money, or, if the court is satisfied that the full amount of the damage actually suffered by the plaintiff is less than that sum of money, for such sum of money as the court determines to be equal to the full amount of the damage actually suffered by the plaintiff, and in the application of the provisions of paragraph (fc) of the said subsection (6), any reference therein to the date of the judgment shall be construed as a reference to the date of the agreement.

(13) Whenever judgment in any action is given against any joint wrongdoer for the full amount of the damage suffered by the plaintiff, or whenever any joint wrongdoer has agreed to pay to the plaintiff a sum of money in full settlement of the plaintiff's claim, and the judgment debt or the said sum of money has been paid in full, every other joint wrongdoer shall thereby also be discharged from any further liability towards the plaintiff.

(14) A person shall, for the purposes of this section, be regarded as a Joint wrongdoer, notwithstanding the fact that another person had an opportunity of avoiding the consequences of his wrongful act and negligently failed to do so.

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Section 5 to apply in particular to liabilities imposed under Part VI of the Motor Traffic Act.

6. Without prejudice to the generality of the provisions or the application of section 5, the provisions of that section shall, in particular, apply to any liability imposed under Part VI of the Motor Traffic Act on any person in respect of any loss or damage caused by, or arising out of, the use or driving of a motor vehicle.

(2) Nothing in this Act contained shall derogate in any manner from the provisions of any law relating to collisions or accidents at sea or in the air, and accordingly in the event of any conflict or inconsistency between this Act and such provisions, such provisions shall prevail over this Act.

PART III

GENERAL

Savings.

7. (1) The provisions of this Act shall not—

- (a) apply in respect of any wrongful act committed before the 17th day of April, 1968 ;
- (b) operate to defeat any defence arising under a contract;
- (c) operate to increase the amount of damages beyond any maximum prescribed in any agreement or any law applicable in respect of any claim for damages.

8. In this Act, unless the context otherwise requires—

Interpretation.

" court ", in relation to any claim, means the court or arbitrator by or before whom the claim falls to be determined;

" damage " includes loss of life and personal injury;

" fault" includes any wrongful act, breach of statutory duty or negligent act or omission which gives rise to liability in damages, or would apart from this Act give rise to the defence of contributory negligence.

CHAPTER 211

CEYLON NATIONAL CHAMBER OF INDUSTRIES

Act No. 10 of 1969. AN ACT TO INCORPORATE THE CEYLON NATIONAL CHAMBER OF INDUSTRIES.

[14th May, 1969.]

Short title. **1.** This Act may be cited as the Ceylon National Chamber of Industries Act.

Incorporation of the Ceylon National Chamber of Industries. **2.** From and after the passing of this Act, such and so many persons as now are members of the Ceylon National Chamber of Industries (hereinafter referred to as " the Chamber ") or shall hereafter be admitted members of the Corporation hereby constituted, whose names shall be inscribed in the register mentioned in section 5, shall be and become a Corporation with liability limited in manner provided in section 13, with continuance forever, under the style and name of " The Ceylon National Chamber of Industries", (hereinafter referred to as " the Corporation ") and by that name shall and may sue and be sued in all courts, with full power and authority to have and use a common seal and to change and alter the same at their pleasure.

General objects for which the Corporation is constituted. **3.** The objects for which the Corporation is constituted are hereby declared to be-

- (d) to advise and communicate on economic and industrial matters with public authorities, with similar associations in other places and with individuals;
- (e) to foster fellow-feeling and co-operation among industrialists, workers and consumers in all matters of common interest,
- (f) to adjust and settle disputes amongst members;
- (g) to promote and take all action necessary to expand the exports of industrial goods of Sri Lanka;
- (h) to collect and circulate statistics and other information relating to industrial, commercial and economic matters;
- (i) to publish industrial, economic, commercial, scientific, technical and vocational journals and literature and to propagate industrial education in Sri Lanka;
- (j) to maintain a library of books and publications on industrial, commercial and economic matters;
- (k) to organize and establish and assist in organizing and establishing vocational and industrial training institutions in Sri Lanka and to arrange and assist in specialized training of personnel of members ;
- (l) to organize and participate in industrial exhibitions and seminars,

- (a) to promote and foster industrial growth in Sri Lanka and to co-operate with the Government and their associations in the attainment of such objective;
- (b) to promote and protect the interests of persons connected with industrial undertakings in Sri Lanka;
- (c) to represent and express on industrial, commercial and economic matters the opinions of the industrial community in Sri Lanka and to aid, assist and co-operate with others in such representation and expression ;

- (m) to assist and provide facilities for industrial research and to take necessary steps to further the introduction of more efficient manufacturing techniques;
- (n) to do such other matters as may be necessary to carry out the objects of the Corporation.

Executive Council.

4. (I) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation made as hereinafter provided, be administered by an Executive Council, consisting of the Chairman, the Deputy Chairman, four Vice-Chairmen, the Honorary Treasurer and not more than forty other members to be elected in accordance with the rules in force for the time being of the Corporation.

(2) The members of the Executive Council of the Chamber holding office on the 14th day of May, 1969, shall be the members of the first Executive Council of the Corporation.

Register of members.

5. (1) The Executive Council shall cause a register to be kept, in which every person who at the date of the passing of this Act is a member of the Chamber and every person thereafter duly admitted a member of the Corporation hereby constituted, shall have his name inscribed.

(2) The register shall contain the following particulars:—

- (a) the name and address of the member;
- (b) the nature of the industry or industries in which the member is engaged;
- (c) the date at which the name of any person was inscribed in the register as a member; and
- (d) the date at which the person ceased to be a member.

Corporation may make rules.

6. It shall be lawful—

- (a) for the Corporation, from time to time, at any general meeting of the

members and by a majority of votes to make rules and pass resolutions for the admission, withdrawal or expulsion of members; for the conduct of the duties of the Executive Council and of the various officers, agents, and servants of the Corporation; and otherwise generally for the management of the affairs of the Corporation and the accomplishment of its objects. Such rules and resolutions, when made and passed, may at a like meeting be altered, added to, amended or cancelled;

- (b) for the Executive Council, from time to time, to make rules and pass resolutions for the procedure in the transaction of business, for the appointment and the payment of remuneration to the various officers, representatives, agents and servants of the Corporation and to any other person or persons for services rendered; and for the expenditure and disposal of the funds of the Corporation. Such rules when made and such resolutions when passed may, by resolution passed at any general meeting of the members of the Corporation by a majority of votes, be altered, added to, amended or cancelled.

7. (1) Subject to the provisions of section 6, the rules set out in the Schedule", shall for all purposes, be the rules of the Corporation:

The rules in the Schedule to be the rules of the Corporation.

Provided, however, that nothing in this section contained shall be held or construed to prevent the Corporation at all lime* hereafter from making fresh rules, or from altering, amending, adding to, or cancelling any of the rules in the Schedule* or to be hereafter made by the Corporation.

- (2) All members of the Corporation shall be subject to the rules in force for the time being of the Corporation.

* The Schedule is omitted.

Power to raise loans, &c.

8. It shall be lawful for the Corporation to borrow or raise money for the purposes of the Corporation ; and to create, execute, grant or issue any mortgages, bonds, debentures or obligations of the Corporation and to pay off and reborrow the money secured thereby or any part or parts thereof.

purposes of and upon the trusts and subject to the conditions in the relative instrument or disposition contained, with full power (subject always to the provisions of any written law relating to trusts and of the relative instrument or disposition) to sell, mortgage, lease, exchange or otherwise dispose of, encumber, or charge the same.

Debts due by and payable to the Corporation.

9. All debts and liabilities of the Chamber existing at the time of the coming into operation of this Act shall be paid by the Corporation hereby constituted, and all debts due to, and subscriptions and contributions payable to, the Chamber shall be paid to the Corporation for the purposes of this Act.

12. (1) There shall be a Board of Trustees consisting of three members of the Corporation who shall be elected at a general meeting of the Corporation. Any vacancy caused by the death, resignation or discontinuance of any member, shall be filled by the Executive Council till the next general meeting.

Board of Trustees.

Procedure for affixing the seal of the Corporation.

10. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of two of the members of the Board of Trustees, who shall sign their names on the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness. Any instrument sealed with the seal of the Corporation and signed by two members of the Board of Trustees shall be presumed to be duly executed.

(2) The power conferred on the Corporation by section 11 to sell, mortgage, lease, exchange or otherwise dispose of immovable property, shall be exercised by the Board of Trustees subject to the rules in force for the time being of the Corporation. The Board shall, however, obtain the prior sanction of the Executive Council for every such transaction.

Corporation may hold property.

11. The Corporation shall be able and capable in law to take and hold either as beneficial owner or as trustee or otherwise any property, movable or immovable, upon or by virtue of any instrument of purchase, grant, gift, or lease, or upon or by virtue of any testamentary disposition or otherwise, and all such property shall be held by the Corporation, for the purposes of this Act and subject to the rules for the time being of the Corporation or otherwise for the

13. No member of the Corporation shall, for the purpose of discharging the debts and liabilities of the Corporation, be liable to make any contribution exceeding the amount of such annual subscriptions as may be due from him to the Corporation.

Limit of liability of members.

14. Nothing in this Act contained shall prejudice or affect the rights of the Republic or of any body politic or corporate or of any other person, except such as are mentioned in this Act, and those claiming by, from or under them.

Saving of the rights of the Republic and others.

CHAPTER 387

CEYLON NATIONAL LIBRARY SERVICES BOARD

Act No. 17 of 1970. AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE CEYLON NATIONAL LIBRARY SERVICES BOARD, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st May, 1970.]

Short title. 1. This Act may be cited as the Ceylon National Library Services Board Act.

(4) If any member of the Board becomes, by reason of illness, or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister, having regard to the provisions of subsection (1), may appoint a fit person to act in his place.

PART I

CEYLON NATIONAL LIBRARY SERVICES BOARD

Establishment and constitution of the Ceylon National Library Services Board. 2. (1) There shall be established, on the appointed date, or as soon as may be thereafter, a Board to be known as the "Ceylon National Library Services Board", hereinafter referred to as "the Board", which shall consist of nine members appointed by the Minister,—

(5) Any member of the Board may resign from the Board by letter addressed to the Minister.

3. The head office of the Board shall be in Colombo. Such branch offices of the Board as the Board considers necessary may be established in places in Sri Lanka, other than in Colombo, with the prior approval of the Minister. Offices of the Board.

(a) two of whom shall be so appointed on the recommendation of the Minister in charge of the subject of Local Government;

4. (1) The quorum for a meeting of the Board shall be five members. Quorum for and procedure at meetings.

(b) one of whom shall be so appointed on the recommendation of the Minister in charge of the subject of Information; and

(2) The procedure to be followed at meetings of the Board shall be as determined by rules made by the Board with the prior approval of the Minister.

(c) one of whom shall be so appointed on the recommendation of the Minister in charge of the subject of Scientific and Industrial Research.

(3) The Director of National Library Services shall be the Secretary of the Board, and shall attend all meetings of the Board and keep minutes of such meetings. The Secretary shall not be entitled to vote at any such meeting.

(2) The Board shall by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal, and may sue and be sued in such name,

(4) The Chairman, or in his absence the Secretary, may at any time, and shall on the request in writing of four members of the Board, call a special meeting of the Board.

(3) A member of the Board shall, unless he earlier vacates office or is removed from office by the Minister, hold office for a term of five years, and shall be eligible for reappointment,

(5) No act or proceeding of the Board shall be invalid by reason only of any vacancy in the office of any member of the Board, or any defect in his appointment.

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(6) Meetings of the Board may be held at such times and places as the Board may, from time to time, determine so, however, that at least one meeting of the Board shall be held every three months.

5. (1) The Chairman of the Board shall be appointed by the Minister from among the members of the Board, and shall, unless he earlier vacates his office or is removed from office by the Minister, hold office for a term of five years.

(2) The Chairman of the Board shall also be its chief executive officer. The Chairman shall preside at all meetings of the Board. In the event of his absence from any such meeting, the members of the Board present at such meeting shall elect one of their number to preside at such meeting.

(3) If the Chairman of the Board becomes by reason of illness, or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint any other member of the Board to act in his place.

(4) The Chairman shall be paid such salary or remuneration as may be determined by the Minister, with the concurrence of the Minister in charge of the subject of Finance.

(5) The Chairman of the Board may resign his office by letter addressed to the Minister.

6. Any power, function, or duty conferred or imposed on the Board by this Act, may, subject to the general direction and control of the Board, be exercised, discharged or performed by the Chairman of the Board, or any member of the Board authorized in that behalf by the Chairman.

7. The members of the Board shall be remunerated in such manner and at such rates as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

8. The Board may

(a) acquire and hold any movable or immovable property, and may manage or dispose of any movable

or immovable property acquired or held by it; and

(b) enter into and perform or carry out, whether directly or through any officer or agent authorized in writing in that behalf by the Board, all such contracts or agreements as may be necessary for the exercise, discharge and performance of the powers, functions and duties of the Board.

9. (1) The seal of the Board shall be in the custody of the Board.

Seal of the Board.

(2) The seal of the Board may be altered in such manner as may be determined by the Board.

(3) The seal of the Board shall not be affixed to any instrument except in the presence of two members of the Board both of whom shall sign the instrument in token of their presence.

PART II

STAFF OF THE BOARD

10. (1) Subject to the other provisions of this Act, the staff of the Board may consist of-

Appointment of Director and officers and servants of the Board.

(a) a Director of National Library Services; and

(b) such number of other officers and servants as may be determined by the Minister.

(2) Subject to the provisions of subsection (1), the staff of the Board shall be appointed by the Board.

(3) No person who has directly or indirectly, whether by himself or by his partner or agent, any share or interest in any contract, made by or on behalf of the Board, shall become, or continue as, an officer or servant of the Board.

11. (1) The Board may appoint, dismiss and exercise disciplinary control over the staff of the Board,

Powers of the Board in regard to the staff of the Board.

Chairman of the Board.

Delegation of powers and functions of the Board.

Remuneration of members of the Board.

General powers.

(2) The Board may, in consultation with the Minister in charge of the subject of Finance and the Minister—

- (a) fix the wages and salaries or other remuneration of the staff of the Board;
- (b) determine the terms and conditions of the employment of such staff;
- (c) establish and regulate a provident fund and provide welfare and recreational facilities, houses, hostels and other like accommodation for such staff; and
- (d) make contributions to any such fund.

(3) Rules may be made by the Board in respect of all or any of the matters referred to in subsection (2) with the prior approval of the Minister.

Appointment of public officers and servants of the Local Government Service and of any local authority to the staff of the Board.

12. (1) At the request of the Board, any officer in the public service may, with the consent of that officer and of the Secretary to the Treasury, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent or be permanently appointed to such staff.

(2) Where any officer in the public service is temporarily appointed to the staff of the Board, the provisions of subsection (2) of section 9 of the Motor Transport Act, No. 48 of 1957*, shall, *mutatis mutandis* apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Board, the provisions of subsection (3) of section 9 of the Motor Transport Act, No. 48 of 1957*, shall, *mutatis mutandis*, apply to and in relation to him.

(4) Where the Board employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Board by that

person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(5) At the request of the Board, any officer or servant of the Local Government Service or any local authority may, with the consent of that officer or servant and of the Local Government Service Advisory Board or such authority, as the case may be, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent, or be permanently appointed to the staff of the Board on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Board and that Advisory Board or authority.

(6) Where any officer or servant of the Local Government Service or of any local authority is temporarily appointed to the staff of the Board he shall be subject to the same disciplinary control as any other member of such staff.

13. All officers and servants of the Board shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and servants of the Board deemed to be public servants.

PART III

POWERS OF THE BOARD

14. Without prejudice to any other powers conferred upon the Board by any other sections of this Act the Board shall have the power—

Powers of the Board.

- (a) to plan and assist in the organization and development of library services in general;
- (b) to establish and maintain the Ceylon National Library;
- (c) to advise and assist in the promotion and development of public library services;
- (d) to advise and assist in the promotion and development of school libraries,

* Repealed by Act No. 19 of 1978.

CEYLON NATIONAL LIBRARY SERVICES BOARD [Cap.387]

- (e) to advise and assist in the publication of reading materials and the production of audio-visual aids;
 - (f) to advise and assist in the co-ordination and development of university libraries, university college libraries, technical college libraries, teachers' college libraries, library services local authorities, Government departmental libraries, and other special libraries;
 - (g) to advise and assist the Government in fixing the minimum academic and professional qualifications for persons employed in library services;
 - (h) to promote the development of library education and training ; and
 - (i) to carry out such other functions as may be necessary for the general promotion of library services.
- (b) all such sums of money as may be received by the Board by way of—
 - (i) donations, gifts or grants from any sources whatsoever, whether in or outside Sri Lanka, and
 - (ii) all such sums of money as are required to be paid into such Fund by or under this Act.
- (2) There shall be paid out of the Fund of the Board all sums of moneys required to defray any expenditure incurred by the Board in the exercise, discharge and performance of its powers, functions and duties.
- (3) All sums of money received on account of the Fund of the Board shall be paid into such bank or banks as may be approved by the Board for the credit of the Board's general, current or deposit account.

Appointment of committees.

15. (1) The Board may, with the prior approval of the Minister, appoint—

- (a) a public libraries committee ;
- (b) a school libraries committee;
- (c) such other committees as the Board may deem necessary to carry out its objects or functions,

consisting of such number of its members as may be determined by the Board.

(2) The Board may delegate to any such committee any such power, function or duty of the Board as it may deem necessary.

(3) A committee appointed by the Board may consist of members and officers of the Board, and any other persons.

PART IV

FINANCE

Fund of the Board.

16. (1) The Board shall have its own Fund. There shall be credited to the Fund of the Board—

- (a) all such sums of money as may be voted by Parliament for the use of the Board; and

(4) Any moneys in the Fund of the Board which are not immediately required for the purposes of the business of the Board shall be deposited in the General Treasury.

17. (1) The Board shall cause proper accounts to be kept of all the transactions of the Board and shall prepare an annual statement of such accounts in such form and containing such particulars as the Minister, with the concurrence of the Minister in charge of the subject of Finance, may from time to time specify.

(2) The financial year of the Board shall be the period of twelve months commencing on the first day of January in each year.

(3) The books of accounts of the Board shall be kept at the head office of the Board.

18. (1) The accounts of the Board for each financial year shall, within two months of the close of that financial year, be submitted to the Auditor-General for audit. For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor or auditors who shall act under his direction and control.

Accounts of the Board and financial year.

Audit of the accounts of the Board.

(2) The Auditor-General and any person assisting him in the audit of the accounts of the Board shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Board as the Auditor-General or such other person assisting him in the audit of the accounts may consider necessary for the purposes of the audit, and shall be furnished by the members or officers of the Board with such information within their knowledge as may be required for such purposes.

(3) For the purpose of meeting the expenses incurred by him in auditing the accounts of the Board, the Auditor-General shall be paid from the Fund of the Board such remuneration as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance. Any remuneration received from the Board by the Auditor-General shall, after deducting any sums paid by him to any auditor employed by him for the purpose of such audit, be credited to the Consolidated Fund.

(4) For the purpose of ascertaining the correctness of the balance sheet, the auditors may, in their discretion, accept in respect of any branch of the Board, any copies or abstracts from the books and accounts of such branch which have been transmitted to the principal place of business of the Board and which have been certified to be correct by an officer of the Board authorized in that behalf by the Board.

(5) For the purposes of this section, the expression "qualified auditor" means—

- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute ; or
- (b) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute

established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute.

(6) The Auditor-General shall examine the accounts of the Board and furnish a report—

- (a) stating whether he has or has not obtained all the information and explanations required by him;
- (b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Board; and
- (c) drawing attention to any item in the accounts which in his opinion may be of interest to Parliament in any examination of the activities and accounts of the Board.

(7) The Auditor-General shall transmit his report to the Board within four months of the receipt of the accounts of the Board by him.

19. (1) The Board shall, on the receipt of the Auditor-General's report in respect of any year, cause a copy of each of the following documents relating to that year to be transmitted to the Minister—

Documents to be transmitted to the Minister to be laid before Parliament.

- (a) the Auditor-General's report;
- (b) the balance sheet;
- (c) a copy of the statement of accounts prepared under section 17 (1);
- (d) the report of the Chairman of the Board giving an account of the work of the Board ; and
- (e) such other financial statements and statistical data as may be decided on by the Minister.

(2) The Minister shall lay copies of the documents transmitted to him under subsection (1) before Parliament within nine months of the close of the year to which such accounts and reports relate.

PART V

GENERAL

subsection (2) of section 11, with the prior concurrence of the Minister in charge of the subject of Finance.

Exemption from customs duty.

20. Notwithstanding anything in any other written law the Minister in charge of the subject of Finance may, on the recommendation of the Minister, waive the customs duty on any article imported by or for the Board, for any of the purposes of the Board.

22. The Board shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly,

The Board deemed to be a scheduled institution within the meaning of the Bribery Act.

23. In this Act, unless the context otherwise requires—

Interpretation.

Rules.

21. (1) The Board may make rules in respect of all or any of the matters for which rules are authorized or required by this Act to be made.

"appointed date" means the 1st day of May, 1970;

" local authority " includes any Municipal Council, Urban Council, Town Council or Village Council;

(2) No rule made by the Board under this Act shall have effect until it has been approved by the Minister, such approval being given, in the case of any such rule relating to any matter referred to in

" the Minister " means the Minister for the time being in charge of the subject of Education.

CHAPTER 210

CHAMBER OF COMMERCE

Ordinances AN ORDINANCE TO INCORPORATE THE CEYLON CHAMBER OF COMMERCE. Nos. 10 of 1912. 2 of 1912. 28 of 1932.

[19th November, 1895.]

Preamble. Whereas an association of merchants called and known as "The Ceylon Chamber of Commerce" has heretofore been established at Colombo for the purpose of effectually carrying out and transacting all matters connected with the said chamber according to the rules agreed to by its members:

And whereas the said association has heretofore successfully carried out and transacted the several objects and matters for which it was established, and has applied to be incorporated, and it will be for the public advantage to grant the application :

Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council, as follows:—

Short title. 1. This Ordinance may be cited as the Chamber of Commerce Ordinance.

Incorporation of Chamber of Commerce. 2. From and after the passing of this Ordinance the present chairman, vice-chairman, and members of the committee of the said Chamber of Commerce, and such and so many persons as now are members of the said Chamber of Commerce or shall hereafter be admitted members of the corporation hereby constituted, whose names shall be inscribed in the register mentioned in section 5, shall be and become a corporation with liability limited in manner provided in section 13, with continuance for ever, under the style and name of "The Ceylon Chamber of Commerce" and by that name shall and may sue and be sued in all courts, with full power and authority to have and use a common seal and to change and alter the same at their pleasure.

3. The general objects for which the corporation is constituted are hereby declared to be- General objects for which the corporation is constituted.

(a) to promote, foster, and protect the commerce of Sri Lanka by collecting and classifying all information bearing on its wants and interests, by obtaining by every means the redress of acknowledged grievances and the removal of pernicious restrictions by controlling or regulating all or any matters concerning the sale, purchase or shipment of produce, and manufactured or prepared products and goods, as between members of the corporation, and generally by any other means howsoever not herein specified ;

(b) to represent and express on commercial questions the opinions of the mercantile community of Sri Lanka and to aid, assist and co-operate with others in such representation and expression;

(c) the consideration of all questions connected with the trade, manufactures and industries of Sri Lanka;

(d) to endeavour to promote or oppose legislative and other measures affecting such trade, manufactures and industries;

(e) to collect and circulate statistics and other information relating to such trade, manufactures and industries;

- (f) to decide disputes and differences on matters of local custom and usage;
- (g) to form a board or commission of reconciliation and of arbitration to parties willing to abide by its decisions and to undertake the settlement of disputes and differences arising out of trade, commerce and industry;
- (h) to advise and communicate on matters of trade, commerce and industry with the public authorities, with similar associations in other places, and with individuals;
- (i) by recording its proceedings and decisions, to form a code of practice by which transactions of business may be simplified and facilitated ;
- (j) to undertake and execute any trusts, and to undertake the office of trustee, and to co-operate with executors and trustees in the financial administration of any estate or trust and to transact or carry on all kinds of business relating to trusts, (subject always to the provisions of any written law relating to trusts);
- (k) to establish and support provident funds for the benefit of the officers, employees and servants of the corporation;
- (l) to borrow or raise money for the purposes of the corporation and for that purpose or for securing money for the performance or discharge of any obligation or liability of the corporation or for any other purpose to create, execute, grant, or issue any mortgages, bonds or obligations of the corporation and to pay off and re-borrow the moneys secured thereby or any part or parts thereof;
- (m) to do all or any of the above things in any parts of the world, and either as principals, agents, trustees or otherwise, and by agents, trustees or otherwise and either alone or in conjunction with others;
- (n) to do all such other things as may be necessary, incidental, or conducive to the interests or benefit of the mercantile community of Sri Lanka or to the attainment of the above objects or any of them or generally to the benefit, protection or advancement of the trade, commerce, manufactures and industries of Sri Lanka;
- (o) to enter into, sign and execute any contracts, agreements and other documents for the purpose of nominating or appointing any person or persons whomsoever as representative or agent of the corporation or for the purpose of delegating any matters to any person or persons whomsoever or otherwise for all or any of the purposes aforesaid either in Sri Lanka or abroad.

It is hereby further declared that the objects specified in each paragraph of this section shall be independent main objects, and shall not be limited or restricted by reference to or inference from the terms of any other paragraph.

4. (1) The affairs of the corporation shall be administered, subject to the rules for the time being of the corporation as hereinafter provided, by a committee consisting of the chairman and vice-chairman respectively and the deputy chairman (if any) of the corporation and .lot less than five members of the corporation to be elected respectively in accordance with the rules for the time being of the corporation, with power to such committee to delegate the administration of any portion 'or portions of the affairs of the corporation to one or more subcommittees.

The affairs of the corporation to be administered by a committee.

(2) All members of the corporation shall be subject to the rules for the time being of the corporation.

(3) The first board of directors shall be Frank Mitchell Mackwood, William Henry Figg, the Hon. William Wilson Mitchell. C.M.G., Adalbert Theodor Schuize, Percy Bois, Garlich William Suhren, and Edward Booth, being respectively the present chairman, vice-chairman, and members of the committee of the said chamber.

Register of members.

5. (1) The committee shall cause a register to be kept, in which every person who at the date of the passing of this Ordinance is a member of the said association, and every person thereafter duly admitted a member of the corporation hereby constituted, shall have his name inscribed-

(2) The register shall contain the following particulars:—

- (a) the name, address, and occupation of each member;
- (b) the date at which the name of any person was inscribed in the register as a member;
- (c) the date at which any person ceased to be a member,

Corporation may make rules.

6. It shall be lawful—

- (a) for the corporation from time to time, at any general meeting of the members, and by a majority of votes, to make rules and pass resolutions for the admission, withdrawal or expulsion of members; for the imposition of fines and forfeitures for breaches of rules; for the election and the conduct of the duties of the committee ; and otherwise generally for the management of the affairs of the corporation and the accomplishment of its objects. Such rules and resolutions when made and passed may, at a like meeting, be altered, added to, amended or cancelled subject, however, to the requirements of section 8;
- (b) for the committee from time to time to make rules and pass resolutions for the procedure in the transaction of business, for the appointment and the conduct of the duties of and the payment of remuneration to the various officers, representatives, agents, and servants of the corporation either in Sri Lanka or abroad and to any other person or persons for services rendered ; and

for the expenditure and disposal of the funds of the corporation. Such rules when made and such resolutions when passed may, by resolution passed by a majority of the committee or by resolution passed at any general meeting of the members of the corporation by a majority of votes, be altered, added to, amended or cancelled.

7. Subject to the provisions in section 6 contained, the rules set forth in the Schedule* shall for all purposes be the rules of the corporation:

The rules in Schedule to be the rules of the corporation.

Provided, however, that nothing in this section contained shall be held or construed to prevent the corporation at all times hereafter from making fresh rules, or from altering, amending, adding to, or cancelling any of the rules in the Schedule* or to be hereafter made by the corporation.

8. No rule in the Schedule* nor any rule hereafter passed at a general meeting, and no decision come to by the corporation in general meeting, shall be altered, added to, amended, or cancelled, except by a majority of the members present and voting at any subsequent general meeting.

Amendment of rules.

9. On the coming into operation of this Ordinance all and every the property belonging to the said Chamber of Commerce, whether held in the name of the said Chamber of Commerce or in the name or names of any person or persons in trust for the said Chamber of Commerce, shall be and the same are hereby vested in the corporation hereby constituted, and the same, together with all after-acquired property, movable and immovable, and all subscriptions, contributions, donations, fines, amounts of loans and advances received or to be received, shall be held by the said corporation for the purposes of this Ordinance and subject to the rules for the time being of the said corporation:

Property vested in corporation.

Provided always that any property movable or immovable heretofore or hereafter acquired or held by the corporation upon trusts or subject to conditions in any grant or testamentary disposition contained or otherwise as

Schedule is omitted.

trustee, shall be held by the corporation upon the trusts or subject to the conditions aforesaid or otherwise upon such trusts as may be imposed upon the corporation with regard to such property, subject always to the provisions of any written law relating to trusts.

grant, gift, or lease, or upon or by virtue of any testamentary disposition or otherwise, and all such property shall be held by the corporation (a) for the purposes of this Ordinance and subject to the rules for the time being of the said corporation or (6) otherwise for the purposes of and upon the trusts and subject to the conditions in the relative instrument or disposition contained, with full power (subject always to the provisions of any written law relating to trusts and of the relative instrument or disposition) to sell, mortgage, lease, exchange, or otherwise dispose of, encumber, or charge the same.

Debts due by and payable to the Chamber of Commerce.

10. All debts and liabilities of the said Chamber of Commerce existing at the time of the coming into operation of this Ordinance shall be paid by the corporation hereby constituted, and all debts due to, and subscriptions, contributions, and fines payable to, the said Chamber of Commerce shall be paid to the said corporation for the purposes of this Ordinance.

13. The liability of each member of the corporation under this Ordinance shall be limited to the transactions of the corporation which shall have occurred during the period his membership has lasted or may last, and to the sum of one hundred and fifty rupees over and above such annual subscription or subscriptions as may be due from such member to the corporation :

Limit of liability of members.

Procedure for affixing the seal of the corporation.

11. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of two of the members of the committee, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness. Any instrument sealed with the seal of the corporation and signed by two members of the committee shall be presumed to be duly executed.

Provided, however, that such limitation of liability shall be exclusive of any contribution that such member may be called upon to make under the rules of the corporation to meet any deficit in the annual expenses of the corporation.

Corporation may hold property.

12. The corporation shall be able and capable in law to take and hold either as beneficial owner or as trustee or otherwise any property, movable or immovable, upon or by virtue of any instrument of purchase,

14. Nothing in this Ordinance contained shall prejudice or affect the rights of the Republic or of any body politic or corporate or of any other person except sui-h as are mentioned in this Ordinance and those claiming by, from or under them.

Saving of rights of the Republic.

CHAPTER 428

CHURCH OF CEYLON

Act
No. 6 of 1972.

AN ACT TO PROVIDE FOR THE REGULATION OF THE CHURCH OF CEYLON, FOR ESTABLISHING ITS IDENTITY WITH THE CHURCH OF ENGLAND IN CEYLON (BY WHATSOEVER NAME CALLED) AND FOR MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH.

[26th February, 1972.]

Preamble.

Whereas the Church of Ceylon, with two Bishops and two Dioceses, has been established, and it is necessary to give legal validity to the same:

And whereas, for the resolution of doubts, it is necessary to establish the identity of the said Church of Ceylon with the Church of England in Ceylon (by whatsoever name called):

And whereas it is necessary, for this purpose to make amendments to the Church of England Ordinance which, as set out in the Preamble thereto, established a Church with one Bishop and one diocese, and to make consequential amendments to other laws relating to the said Church:

And whereas it is expedient to enable the said Church of Ceylon to regulate its own affairs:

And whereas the governing authority of the Church of Ceylon, that is to say, the Bishop of Colombo and the Diocesan Council of the Diocese of Colombo, and the Bishop of Kurunegala and the Diocesan Council of the Diocese of Kurunegala, have consented thereto:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the Church of Ceylon Act.

2. (1) The Church of Ceylon shall consist, and with effect from the relevant date shall be deemed to have consisted, of the Bishop of Colombo and the Diocese of Colombo and of the Bishop of Kurunegala and the Diocese of Kurunegala.

(2) In this Act, "relevant date" means the Second day of February, 1950, being the date on which the Diocese of Kurunegala was established.

3. The territorial limits of the Diocese of Colombo and of the Diocese of Kurunegala shall be the territorial limits existing on the relevant date, so, however, that such limits may be varied by mutual agreement between the Diocesan Councils of Colombo and Kurunegala with the consent of the Bishop of Colombo and the Bishop of Kurunegala.

***4.** Subject to the other provisions of this Act, the Church of Ceylon shall for all intents and purposes be deemed to be a continuation of and identical with the Church of England in Sri Lanka sometimes called or known as—

- (a) The United Church of England and Ireland,
- (b) the Episcopal Churches in the Island of Sri Lanka,
- (c) The Church of England in the Diocese of Colombo, or
- (d) The Diocese of Colombo of the Ecclesiastical Province of the

* Amendments effected by sections 5 to 9 of Act No. 6 of 1972 to the Church of England Ordinance and to the Episcopal Churches Ordinance have been incorporated in those enactments.

Church of India, Burma and Ceylon, or of India, Pakistan, Burma and Ceylon,

and all property, rights and privileges which belong to, and all duties and liabilities which have been imposed upon, the Church designated by any of the expressions set out in paragraphs (a) to (d) shall devolve upon

the said Church of Ceylon, and the expressions set out in paragraphs (a) to (d) and all other expressions relating to the said Church of England in Sri Lanka heretofore used in all enactments, rules, regulations, deeds, contracts and writings of whatsoever name or description shall henceforth be deemed to refer to the said Church of Ceylon.

CHAPTER 429

CHURCH OF ENGLAND

Ordinances AN ORDINANCE TO ENABLE THE BISHOP, CLERGY, AND LAITY OF THE CHURCH OF
 Nos. 6 of 1885, ENGLAND IN SRI LANKA TO PROVIDE FOR THE REGULATION OF THE AFFAIRS
 32 of 1890, OF THE SAID CHURCH.
 24 of 1892,
 17 of 1910,
 1 of 1930,

Act
 No. 6 of 1972.

[14th February, 1885.]

Preamble. Whereas by the Ordinance No. 14 of 1881*, intituled "An Ordinance to amend the Ordinance No. 1 of 1870, intituled 'An Ordinance relating to the Fixed Civil Establishments of this Colony'", the salaries and allowances payable to the Bishop and other ecclesiastical persons of the Church of England, out of the Colonial Treasury, have been prospectively abolished, and provision has been made for payment from time to time to trustees for the use of the said church until the 1st day of July, 1886, of the salaries and allowances payable in respect of offices which may become vacant before that date:

and over all churches, the salaries and allowances in respect of which had been prospectively withdrawn (save and except as regards the churches of St. Peter, Colombo, and St. Paul, Kandy), were transferred to certain trustees and their successors as a body corporate, pending the appointment of a governing body, to represent the said churches:

And whereas, in consequence of the prospective withdrawal of all State grants to the said church, it has been decided that all the right, title, interest, powers, and control of the Government held and exercised in and over all churches, the salaries and allowances in respect of which have been prospectively withdrawn, shall be transferred to trustees, save and except the right, title, and interest in the two churches hereinafter mentioned, subject nevertheless in all respects to the same uses, conditions, and limitations and for the same purposes as the same are now held and exercised by the said Government:

And whereas it is expedient to repeal the said Ordinance No. 15 of 1881, and to make other provisions in lieu thereof, and to enable the Bishop, clergy, and the laity of the Church of England to make such arrangements for the management of their ecclesiastical property and affairs as they may think fit and necessary:

Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Church of England Ordinance. Short title.

2. From and after the time when this Ordinance shall come into operation[^], it shall be lawful for the Bishop, clergy, and laity, being members of the Church of England in the Diocese of Colombo and in the Diocese of Kurunegala severally, to hold synods, assemblies, or conventions at such places, in such manner, and for such purposes in connexion with their ecclesiastical affairs as to them shall seem fit, and to make and enforce regulations in

Authorization for Bishop, clergy, and laity of Church of England to hold synods. [§ 5, 6 of 1972.]

And whereas by Ordinance No. 15 of 1881f, entitled "An Ordinance for the appointment of Incorporated Trustees of the Church of England in Ceylon", all the right, title, interest, powers, and control held and exercised by the Government in

* Expired.

^T Repealed by Ordinance No. 6 of 1885.

^t Amendments effected by Sections 5 and 7 of Act No. 6 of 1972 are deemed to have had effect only from and after 2nd February, 1950.

connexion therewith, which shall be binding upon such persons as have either directly or indirectly assented thereto:

Provided that nothing herein contained shall authorize the imposition of any rate or tax upon any person or persons whomsoever, whether belonging to the said church or not, nor the infliction of any temporal punishment, fine, or penalty upon any person other than his suspension or removal from an office or privilege in or under the control of the said synod, assembly, or convention, or the making of any rule or regulation contrary to the law of Sri Lanka.

Bishop to fix time and place of first synod. [§ 5, 6 of 1972.]

3. It shall be lawful for the Bishop of Colombo, or his representative duly constituted, and for the Bishop of Kurunegala or his representative duly constituted, to fix the time and place for holding the first synod, assembly, or convention or Council of each Diocese.

Synod, assembly or convention of each Diocese to consist of Bishop, licensed priests, and representatives of the laity. [§ 5, 6 of 1972.]

4. The first synod, assembly, or convention or Council of each Diocese shall consist of the Bishop, the clergy of the Church of England being in priests' orders, and the representatives of the laity.

Baptized laymen of twenty-one years of age and subscribing to declaration to vote for representatives of laity. [§ 5, 6 of 1972.]

5. All baptized laymen of twenty-one years of age and upwards, who shall subscribe to a declaration substantially in the form given in Schedule A, shall, subject to the provisions of section 6 of this Ordinance, have the right of voting at the election of representatives to the first synod, assembly, or convention or Council of each Diocese upon being registered so to vote by the proper authority accordingly.

How laity to be represented. [§ 5, 6 of 1972.]

6. At the first synod, assembly, or convention or Council of each Diocese the laity shall be represented by one representative for every congregation or group of congregations according to the number of members thereof, there being one representative where the persons of over fifteen years of age forming a congregation or group of congregations number over fifty and under one hundred and fifty; two,

where they number over one hundred and fifty and under three hundred; three, where they number over three hundred and under six hundred; four, where the number is above six hundred:

Provided that no congregation or group of congregations shall have more than four representatives. Every representative shall, before performing the duties of such, subscribe to a declaration according to the form contained in Schedule B.

7. And after the first meeting, the synod, assembly, or convention or Council of each Diocese shall have the power of determining the time when and place where its subsequent meetings shall be held, and the qualifications necessary to entitle the clerical and lay members of the Church of England to vote thereat.

First synod to determine when subsequent synod to be held. [§ 5, 6 of 1972.]

8. It shall be in the power of the synod, assembly, convention or Council of the Diocese of Colombo and of the Diocese of Kurunegala, respectively to alter their constitutions in any way, so, however, that no change be made except with the consent of the Bishop of Colombo or the Bishop of Kurunegala for the time being, as the case may be, and also of two-thirds of the whole order of clergy, and two-thirds of the whole order of lay representatives as above described.

Synods may, subject to certain conditions, change their constitutions. [§ 5, 6 of 1972.]

9. It shall be lawful for the first or any subsequent synod, assembly, or convention held under the authority of this Ordinance, by any statute, ordinance, or resolution to be passed for such purpose, to nominate any number of persons, not less than five, being members of the Church of England, to act as a corporation, for the purposes hereinafter mentioned, and upon such statute, ordinance, or resolution being recorded in the Registry of the Supreme Court such persons and their successors, to be appointed as hereinafter provided for, shall become a corporation, with continuance for ever, under the style of "The Incorporated Trustees of the Church of England in Ceylon", with full power and authority to have and use a common seal, and as trustees for the said church to receive, take, hold, or otherwise dispose of all descriptions of property, both real and

First synod to appoint Incorporated Trustees

personal, and shall and may be able and capable in the law to sue and be sued, answer and be answered, in any court or courts or elsewhere, in all actions or causes whatsoever for, touching, or concerning the same:

Provided that the seal of the said corporation shall not be affixed to any instrument except in the presence of three at least of the members of such corporation, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness;

[§ 6,6 of 1972.] Provided, further, that the change, succession and removal of the members of the said corporation and the constitution and government thereof, and the beneficial uses and disposal of the property to be held in trust by them as aforesaid, shall be regulated, decided and declared from time to time by the Diocesan Council of the Diocese of Colombo with the concurrence of the Diocesan Council of the Diocese of Kurunegala, and shall be made subject to such regulations as may from time to time be made by the Diocesan Council of the Diocese of Colombo with the concurrence of the Diocesan Council of the Diocese of Kurunegala.

Right, title, interest, power, and control over all churches with appurtenances to be absolutely vested in Incorporated Trustees of the Church of England.

10. All the right, title, interest, powers, and control in and over all churches with their appurtenances (save and except the churches of St. Peter, Colombo, and St. Paul, Kandy) which by Ordinance No. 15 of 1881* were proposed to be transferred to "The Incorporated Trustees of the Church of England", as referred to in that Ordinance, shall, upon such a body corporate as is referred to in this Ordinance coming into existence, forthwith become absolutely vested in such body corporate, as well as any other property which may in any manner or at any time hereafter devolve upon the said trustees in their capacity of the Incorporated Trustees of the Church of England.

Repealed by Ordinance No. 6 of 1885.

11. Until the first of such synods, assemblies, or conventions as are referred to in the previous provisions of this Ordinance shall have appointed the Incorporated Trustees of the Church of England in Ceylon in terms of section 9 of this Ordinance, the properties, rights, and powers to be vested in the said Incorporated Trustees of the Church of England in Ceylon as hereinbefore provided shall, in the meantime, be vested as follows :—

Provisions for vesting of property of Church of England pending appointment of Incorporated Trustees.

- (a) relating to churches or congregations having trustees lawfully appointed thereto : in such trustees ;
- (b) relating to the churches of Kelaniya and Kohilawatta: in the trustees of St. Thomas' College, Colombo;
- (c) relating to the churches of Mannar and Kalpitiya: in the Bishop of Colombo; and
- (d) relating to any other churches than those mentioned in subsections (a), (b) and (c): in the Bishop of Colombo:

Provided, however, that nothing herein contained shall prevent or delay such properties, rights, and powers vesting in the Incorporated Trustees of the Church of England in Ceylon so soon as they shall have been appointed; and

Provided that no right, title, interest, power, and control which by the Episcopal Churches Ordinance is or may hereafter be vested in trustees appointed thereunder, save and except such right, title, interest, power, and control as by Ordinance No. 15 of 1881* it was purported to convey to the Incorporated Trustees as therein bound, nor any right, title, interest, power, and control which by any deed or other instrument is or may hereafter be vested in the Bishop of Colombo, or his successors, or in the Bishop of Kurunegala or his successors, or in any other trustees, for the benefit of the said church, shall vest in such Incorporated Trustees of the Church of England in Ceylon.

[§ 7,6 of 1972.]

Power to make regulations enabling congregations to pass a resolution to vest the church in the Incorporated Trustees. [§ 7, 6 of 1972.]

12. It shall be lawful for the synod, assembly, convention or Council held under the authority of this Ordinance, by any statute, ordinance, or resolution to be passed for such purpose, to make regulations for enabling the majority of the members of the congregation of any church, present and voting at a meeting to be held and convened in manner by the said regulations provided, to declare by resolution their desire that such church and all immovable property belonging or appertaining to such church shall absolutely vest in the Incorporated Trustees of the Church of England in Ceylon.

Church to vest in Incorporated Trustees on such resolution being passed.

13. (1) On the passing of such resolution by the congregation under section 12 of this Ordinance, the church and all the immovable property belonging or appertaining to such church shall forthwith absolutely vest in the Incorporated Trustees of the Church of England in Ceylon in trust, and to and for the use of the Church of England in Sri Lanka, in the same and in the like manner as the same has heretofore been held, exercised, and enjoyed; subject, nevertheless, in all respects to the provisions and conditions contained in section 9 of this Ordinance, whereby the constitution of the said Incorporated Trustees and the beneficial enjoyment of all property which shall vest in them are to be regulated or controlled by the said synods, assemblies, conventions or Councils.

[§ 7,6 of 1972.]

Resolution to be published in the Gazette.

(2) Every resolution passed by a congregation under section 12 of this Ordinance shall be published in the Gazette within one month of the passing thereof.

Interpretation.

14. In sections 12 and 13—

" church " shall be construed to mean any Episcopal church not governed by the provisions of the Episcopal Churches Ordinance, which has not been brought under the operation of the provisions of the Non-Episcopal Churches Ordinance, and any church not vested in any person or body corporate or originally vested in any trustee or trustees where the deed or instrument creating the trust contains no adequate provisions for

the appointment of a new trustee or trustees, and the trustee or one or more of the trustees originally appointed may have died, or may have left Sri Lanka and be residing elsewhere, or may be desirous of being relieved from the duties thereof;

" members of the congregation" shall mean all persons entitled to vote at the election of lay representatives of the church under the rules and regulations for the time being of the synod, assembly, or convention held under the authority of this Ordinance.

15. It shall be lawful for the synod, assembly, convention or Council of the Diocese of Colombo and of the Diocese of Kurunegala respectively to make provision for the appointment and resignation of Bishops, and to admit any persons to be Bishop of Colombo or Bishop of Kurunegala, as the case may be, and when vacancies in the see occur, generally to regulate their tenure of office and their retirement or removal therefrom, and the persons so admitted shall be Bishops of Colombo or Bishops of Kurunegala, as the case may be, for the purpose of this Ordinance, the Kandy Church Ordinance and of the Episcopal Churches Ordinance :

Appointment and resignation of Bishops and vacancies in the see. [§ 7, 6 of 1972.]

[§ 7, 6 of 1972.]

[§ 7, 6 of 1972.]

Provided always that nothing be done at variance with the rights of the Bishop or Archbishop, exercising for the time being Metropolitan functions over the Church of Ceylon. [§ 7,6 of 1972.]

16. (1) Every person admitted to be a Bishop of Colombo under this Ordinance shall be a corporate body, and by the name of the Bishop of Colombo shall have perpetual succession and full power to acquire, purchase, take, hold, or enjoy movable and immovable property of every description, and to sell and otherwise dispose of the same, and may" sue and be sued in all Courts of Justice.

Incorporation of Bishop of Colombo and devolution of property vested in Bishop of Colombo and his successors.

(2) All property, whether movable or immovable, which by virtue of any deed or instrument or otherwise was, or is now, or shall hereafter be vested in any Bishop of

Colombo and his successors, whether appointed by Royal Letters Patent under the Great Seal of the United Kingdom of Great Britain and Northern Ireland, or admitted under the provisions of this Ordinance or any other enactment, shall, subject to any trusts or conditions affecting the same, devolve on and be vested in the Bishop of Colombo for the time being admitted under this Ordinance and his successors as such Bishop.

acquire, purchase, take, hold or enjoy movable and immovable property of every description, and to sell and otherwise dispose of the same and may sue and be sued in all Courts of Justice.

(2) All property, whether movable or immovable, which by virtue of any deed or instrument or otherwise was, or is now, or shall hereafter be vested in the Bishop of Kurunegala and his successors shall, subject to any trusts or conditions affecting the same, devolve on and be vested in the Bishop of Kurunegala for the time being admitted or deemed to be admitted under this Ordinance and his successors as such Bishop.

17. (1) Every person admitted to be a Bishop of Kurunegala under this Ordinance shall be a corporate body and by the name of the Bishop of Kurunegala shall have perpetual succession and full power to

Incorporation of Bishop of Kurunegala and devolution of property vested in Bishop of Kurunegala and his successors.
[§ 7, 6 of 1972.]

[Section 5.]

SCHEDULE A

I, do hereby solemnly declare that I am a member of the Church of England, and that I have for three calendar months last past been an accustomed member of the congregation of and that I am not registered as an elector of any other congregation.

[Section 6.]

SCHEDULE B

I, of , do solemnly declare that I am a member of the Church of England and a communicant of the said church.

CHAPTER 329

CONTROL OF FINANCE COMPANIES

Act AN ACT TO CONTROL AND REGULATE NON-BANKING FINANCIAL INSTITUTIONS AND TO
 No. 27 of 1979. ENSURE THE LIQUIDITY AND SOLVENCY OF SUCH INSTITUTIONS IN ORDER TO
 PROTECT THE INTERESTS OF DEPOSITORS AND TO PROVIDE FOR MATTERS CONNECTED
 THEREWITH OR INCIDENTAL THERETO.

[6th December, 1979]

Short title. **1.** This Act may be cited as the Control of Finance Companies Act.

(2) Notwithstanding the provisions of subsection (1), this Act shall not apply to any banking institution within the meaning of section 127 of the Monetary Law Act or to any co-operative society registered under the Co-operative Societies Law.

PART I

REGISTRATION AND LICENSING OF INSTITUTIONS

Application of this Act. **2.** (1) This Part of this Act shall apply to-

3. No Institution to which this Part of this Act applies shall, on or after the appointed date, carry on business unless it has been registered with the Board as hereinafter provided : Registration of Institutions.

(a) every Institution which is a limited liability company with capital of not less than one hundred thousand rupees;

Provided, however, that any such Institution which was carrying on business prior to the appointed date, may, without being so registered, carry on business for a period not exceeding six months from the appointed date;

(b) every Institution with deposits in excess of five hundred thousand rupees;

Provided further that the Board may in its sole discretion grant to any Institution referred to in the foregoing proviso, one, and not more than one, extension of the period, specified therein for carrying on business without being so registered.

(c) any two or more affiliated or connected Institutions which are limited liability companies- whose capital when aggregated is not less than one hundred thousand rupees ;

4. (1) Every application for registration of an Institution to which this Part of this Act applies shall be made to the Board in the prescribed form and shall contain a declaration by the applicant that the particulars stated in the application are to the best of his knowledge and belief true and accurate. Particulars prior regulation.

(d) any two or more affiliated or connected Institutions whose total deposits when aggregated are in excess of five hundred thousand rupees; and

(e) any group or category of Institutions declared by the Minister on the recommendation of the Monetary Board of the Central Bank of Ceylon (hereinafter referred to as the " Board ") by Order published in the Gazette to be Institutions to which this Part of this Act shall apply.

(2) Every person who makes any declaration or furnishes any information under subsection (1) knowing the same to be false in any material particular shall be guilty of an offence under this Act.

Board to refuse registration in certain instances,

5 (1).Where an application has been made to the Board for the registration of any Institution to which this Part of this Act applies, the Board may—

- (a) examine, or cause to be examined by the Director of Bank Supervision of the Central Bank of Ceylon or any officer authorized in writing in that behalf by such Director, the books of accounts and other documents of such Institution;
- (b) determine whether any sum of money accepted, borrowed or solicited by such Institution is a deposit and whether the affairs of such Institution are being conducted in a manner detrimental to its present or future depositors.

(2) Where the Board is of opinion that such Institution is not liable to registration under section 3 or that the affairs of such Institution are being conducted in a manner detrimental to its present or future depositors, the Board shall refuse to register such Institution.

(3) Where the Board is of opinion that such Institution is liable to registration under section 3, and that its affairs are not being conducted in a manner detrimental to its present or future depositors, the Board shall register the Institution.

(4) The decision of the Board under subsection (1) or subsection (2) shall be final and conclusive and shall not be questioned in any court.

Register for the registration of Institutions.

6. The Board shall keep and maintain in the prescribed form a register for the registration of every Institution to which this Part of this Act applies.

Issue of licence.

7. Where any Institution has been registered under this Act the Board shall, in the prescribed form, issue to such Institution a licence subject to such conditions as the Board may impose in accordance with rules made under this Act. Such licence shall be exhibited at all times in the principal office or place of business in Sri Lanka of such Institution.

8. (1) Where any Institution registered under this Act has ceased to carry on business, a notice of such cessation shall be given to the Board within three months of such cessation—

- (a) where such Institution is a body corporate, by the director, manager or secretary thereof;
- (b) where such Institution is an unincorporate body of persons, by every individual constituting that body; or
- (c) where such Institution is an individual, by such individual or if he is dead by his legal representatives.

(2) The Board shall, on receipt of a notice under subsection (1), remove the name of the Institution from the register and shall cancel its licence.

9. (1) Where the Board has reasonable grounds to believe that any Institution registered under this Act is not carrying on business the Board may send to such Institution a notice by registered post requiring such Institution to furnish proof within one month from the date of such notice that it has not ceased to carry on business. Where such Institution fails to furnish such proof within such period the Board shall remove the name of such Institution from the register and shall cancel its licence.

(2) Where any Institution whose name has been removed from the register in terms of subsection (1) thereafter applies to the Board to be registered under this Act the Board may treat such application as a fresh application for registration and may register such Institution, having satisfied itself that the provisions of section 5 have been complied with and that such Institution has not been guilty of the breach of any of the provisions of this Act or of any rule or direction made thereunder. The refusal of the Board to register any such Institution shall be final and shall not be questioned in any court.

(3) Where an order has been made by a competent court for the winding up of an

Cessation of business by Institution.

Removal of name from register and cancellation of licence.

Institution registered under this Act the Board shall remove the name of such Institution from the register and shall cancel its licence.

Transfer of dormant deposit accounts to special account in Central Bank of Ceylon.

10. (I) Where a deposit account with any Institution registered under this Act has lain dormant, that is to say, where there has been no withdrawal from or addition to such deposit (or where there has been no receipt by the Institution of any written correspondence from the depositor or his lawful representative in relation to the deposit) for a period exceeding ten years, the moneys lying in deposit together with interest thereon accrued, if any, shall, if the Board so directs, be transferred notwithstanding anything in any other law, by such Institution to a special account in the Central Bank of Ceylon.

(2) Any person who furnishes proof to the satisfaction of the Board that any moneys lying to his credit in his name with any Institution registered under this Act or in the name of a person from whom he derives title have been transferred to a special account in the Central Bank of Ceylon under subsection (1) shall, subject to such terms, conditions or restrictions as may be imposed in respect of such moneys by or under any written law, be entitled to repayment of such moneys by the Central Bank of Ceylon together with the interest payable on such moneys up to the date of repayment at such rate as the Board may, from time to time, determine, or, without such interest if the Board so decides.

(3) Any moneys transferred to a special account under subsection (1) may be utilized for such purposes as may be determined by the Board after consultation with the Minister in charge of the subject of Finance.

PART II

POWERS, FUNCTIONS AND DUTIES OF THE BOARD IN RELATION TO INSTITUTIONS

Part II and III of this Act to apply to Institutions, whether registered or not.

11. The provisions of this Part and of Part III shall apply to Institutions whether or not registered under this Act.

12. (1) For the purposes of this Act the Board may give directions to Institutions, or to any group or category of Institutions regarding the form and manner in which any aspect of the business of such Institutions is to be conducted.

Board to give directions.

(2) Without prejudice to the generality of the powers conferred by subsection (1) directions may be given by the Board to Institutions, or to any group or category of Institutions in respect of—

- (a) the terms and conditions under which deposits may be accepted by such Institutions, the maximum amount that may be deposited with an Institution in the name of one person in one or more accounts, the maximum rates of interest payable on such deposits, and the maximum periods for which deposits may be received;
- (b) the form and manner in which books of account or other records or documents are to be maintained by such Institutions;
- (c) the terms and conditions under which any loan may be granted by such Institutions;
- (d) the maximum rate of interest that may be charged by such Institutions in respect of any loan;
- (e) the maximum rates which may be paid to or charged by such Institutions by way of commissions, discounts, fees or other payments whatsoever;
- (f) the terms and conditions under which investments may be made by such Institutions;
- (g) the minimum ratio which the capital of such Institutions should bear to the total deposit liabilities of such Institutions;
- (h) the minimum ratio which the liquid assets of such Institutions should bear to the total deposit liabilities of such Institutions and the

categories of liquid assets that should be taken into account in calculating such ratio;

(i) the minimum initial payment a prospective hirer should make on any hire-purchase agreement and specific different initial payments for different classes of transactions ; such minimum initial payment may be expressed as a percentage of the value of the goods; and

(j) the maximum permissible maturities for loans and investments made by such Institutions and the nature and amount of the security that may be required or permitted for various types of credit operations.

(3) The maximum rate of interest fixed by any direction under paragraphs (a), (c) or (d) of subsection (2) shall apply in respect of any deposit accepted or in respect of any loan taken before the date of such direction:

Provided, however, that nothing in any such direction shall—

(a) apply to any interest accrued before the date of such direction in respect of any such deposit or loan ; or

(b) require the reduction of the rate of interest payable on any deposit accepted before the date of such direction if such reduction would constitute a breach of the contract or agreement relating to such deposit.

(4) For the purposes of this Act the Board" may give directions where necessary to any institution in particular on such matters as are specified in subsection (1) and subsection (2) and in the manner set out therein;

Provided, however, the competent court may on any application made to it in that behalf by that particular Institution, at any time while any such direction is in force make a declaration permitting that Institution to carry on its business without being subject to such direction, or may vary

or alter such direction in such manner as the court may determine and any declaration by the court as aforesaid shall have effect notwithstanding anything to the contrary in the direction made by the Board.

13. The Board may require any proprietor, partner, director, manager, secretary or employee of any Institution to furnish all such information as may be necessary to ascertain whether any sum of money accepted, borrowed or solicited by such Institution is a deposit.

Board may require Institution to furnish information.

14. (1) The Board may from time to time by directions—

Limitation of loans and investments of Institutions.

(a) prohibit Institutions in general or any group or category of Institutions from increasing the amount of their or its loans and investments; or

(b) fix limits to the rate at which the amount of loans and investments made by Institutions specified in paragraph (a) may be increased within specified periods;

Provided, however, that nothing in any such direction shall be deemed to require such Institutions to reduce the amount of their loans and investments below the amount outstanding at the date of the direction.

(2) A direction under subsection (1) may be applicable to all the loans and investments of any Institution referred to in that subsection or any specified class or classes of such loans and investments; so however, that such direction shall be applicable uniformly and without discrimination to all Institutions generally or to any group or category of such Institution.

15. (1) The Director of Bank Supervision of the Central Bank of Ceylon may at any time examine, or authorize any officer of his department to examine, the books and accounts of any Institution.

Examination of books of accounts of Institutions.

(2) The report on any such examination shall be furnished to the Governor of the

Central Bank of Ceylon by the Director of Bank Supervision as soon as such examination is completed. The Director of Bank Supervision may recover the cost of such examination from the Institutions.

(3) It shall be lawful for the Director of Bank Supervision or any officer authorized by him—

- (a) to administer in accordance with the Oaths Ordinance, oaths or affirmations to any proprietor, partner, director, manager, secretary or employee of any Institution;
- (b) to require any proprietor, partner, director, manager, secretary or employee of any Institution to furnish all such information as the Director or any officer authorized by him may consider necessary to ascertain the true condition of the affairs of such Institution and whether such Institution is being conducted in a manner detrimental to its present or future depositors; and
- (c) to require any proprietor, partner, director, manager, secretary or employee of any Institution to produce for inspection any books, records or other documents in his possession containing or likely to contain any necessary information.

(4) It shall be the duty of every proprietor, partner, director, manager, secretary or employee of any Institution to afford to the Director of Bank Supervision or any officer authorized by such Director access to all books and records of that Institution including its cash balances, its assets and liabilities whenever so requested by such Director.

16. (I) In any case where the Director of Bank Supervision of the Central Bank of Ceylon is satisfied, after the examination by himself or by any officer authorized by him, of the affairs of any Institution, or upon information received from the Institution, that the Institution is insolvent or is likely to become unable to meet the demands of its

depositors, or that its continuance in business is likely to involve loss to its depositors or creditors, the Director shall make a report accordingly to the Governor of the Central Bank of Ceylon for submission to the Board ; and if the Board, upon review of the facts and circumstances, is of opinion that action should be taken as hereinafter provided, the Board may make order directing the Institution forthwith to suspend business in Sri Lanka and directing the Director to take charge of all books, records and assets of the Institution and to take such measures as may be necessary to prevent the continuance of business by the Institution.

(2) Notwithstanding anything in any written or other law, no action or proceeding may be instituted in any court for the purpose of securing the review or revocation of any order made under subsection (1) or in respect of any loss or damage incurred, or likely to be or alleged to be incurred, by reason of such order.

(3) An order made by the Board under subsection (1) in respect of any Institution shall cease to have effect upon the expiration of a period of thirty days from the date on which it is made ; and it shall be the duty of the Board, as soon as practicable and in any event before the expiration of the said period, to—

- (a) make order permitting the Institution to resume business, either unconditionally or subject to such conditions as the Board may consider necessary in the public interest or in the interests of the depositors and other creditors of the Institution; or
- (b) to cause the Director of Bank Supervision to make application as hereinafter provided to the competent court for the winding up of the Institution.

(4) The competent court may, on any application made by the Director of Bank Supervision, order the winding up of—

- (a) any Institution which is a company, and accordingly, the provisions of

Power of Board to suspend, restrict business or wind up an Institution.

the Companies Ordinance* relating to the winding up of companies subject to the supervision of court shall apply *mutatis mutandis* to the winding up of such Institution; or

- (b) any Institution which is a person (other than a company) or an unincorporate body of persons and in any such winding up where the assets of the Institution are not sufficient to meet its liabilities, the court may order that the assets of that person or of every individual constituting that body be made available to the liquidator for the purpose of the winding up of such Institution.

(5) In the winding up of an Institution under paragraph (&) of subsection (4) the value of the assets and liabilities of the Institution shall be ascertained in such manner and upon such basis as the liquidator thinks fit. The competent court may, at any time after making a winding-up order, authorize the liquidator to realize all assets and may require any person to pay, deliver, convey, surrender, or transfer forthwith, or within a specified time to the liquidator any money, property, or books and papers in his hands to which the Institution is entitled. A scheme for the purpose of the winding up of the Institution shall be prepared by the liquidator and submitted for confirmation to the competent court and the winding up of the Institution shall be carried out according to such scheme.

(6) In any case where an order is made, whether in pursuance of an application under this section or otherwise, for the winding up of any Institution, then, notwithstanding anything in any other written law, the Director of Bank Supervision or any person authorized in that behalf by the Board shall be appointed to be the liquidator for the purposes of such winding up.

(7) Where an order is made to wind up an Institution other than a company, the remuneration of the liquidator appointed

under subsection (6) and all costs, charges and expenses properly incurred in the winding up shall be payable in priority to all other claims, notwithstanding anything in any other written law to the contrary, out of the assets of the Institution that is being wound up.

(8) Where an order has been made by the Board under subsection (3) permitting the resumption of business by any Institution subject to such conditions as may be specified in the order, the competent court may, on application made to it in that behalf by the Institution at any time while the order is in force, make a declaration permitting the Institution to resume business unconditionally, or varying or altering, in such manner as the court may determine, all or any of the conditions specified by the Board; and any such declaration shall have effect notwithstanding anything in the order made by the Board under subsection (3).

The Director of Bank Supervision shall be named respondent to any such application and shall be entitled on behalf of the Board to be heard and to adduce evidence at the hearing thereof.

(9) In any case where application is made by the Director as provided in subsection (3) for the winding up of any Institution—

- (a) the Institution shall not carry on business during the pendency of the application unless it is authorized so to do by the court and except in accordance with such conditions, if any, as may be specified by the court; and

- (b) the court, if it is of opinion after such inquiry as it may consider necessary, that the Institution is not insolvent, may make a declaration permitting the Institution to resume business either

* Repealed and replaced by the Companies Act, No. 17 of 1982.

unconditionally or subject to such conditions as the court may consider necessary in the public interest or in the interests of the depositors and other creditors of the Institution.

(10) Every order made by a competent court under this section shall be subject to an appeal to the Court of Appeal and the provisions of the Civil Procedure Code relating to appeals in civil actions shall apply *mutatis mutandis* in the case of any such appeal;

Provided that an order under paragraph (a) of subsection (9) shall be final and shall not be subject to appeal.

(11) Every application to a competent court under this section shall be deemed to be an action of the value of five thousand rupees.

(12) In this section, "competent court", in relation to any Institution means the District Court of Colombo or of the district in which the principal office in Sri Lanka of the Institution is maintained.

(13) (a) Any proprietor, partner, director, manager, secretary or employee of any Institution who fails to furnish any information or to produce any book, record or other document when required so to do by the Director of Bank Supervision or by any officer authorized by such Director, or who obstructs or fails to permit the Director of Bank Supervision or any officer authorized by such Director to make any examination under this section or under section 15, shall be guilty of an offence.

(b) Any person who in any report or information furnished to the Director of Bank Supervision, or to any officer authorized by the Director of Bank Supervision under this section or under section 15 makes any statement which he knows to be false, shall be guilty of an offence.

Offences and penalties,

17. (1) Any person who contravenes or fails to comply with any provisions of this Act or of any rule, or direction made or given thereunder shall be guilty of an offence under this Act.

(2) In the case of any offence under this Act committed by a body of persons—

(a) where the body of persons is a body corporate, every director, manager or secretary of that body corporate ; and

(b) where the body of persons is an unincorporate body, every individual who is a member of such body,

shall be guilty of an offence:

Provided, however, that no such person shall be deemed to be guilty of an offence if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of that offence.

(3) Every person who is guilty of an offence under this Act by reason of the contravention of or failure to comply with the provisions of section 3, section 15 or section 16 shall be liable on conviction after trial before the High Court to imprisonment of either description for a term not exceeding three years or to a fine not exceeding ten thousand rupees or to both such imprisonment and fine.

(4) Every person who is guilty of an offence other than an offence under section 3, section 15 or section 16 shall be liable on conviction after trial before a Magistrate Court to imprisonment of either description for a term not exceeding six months or to a fine not exceeding two thousand five hundred rupees or to both such imprisonment and fine.

PART III

GENERAL

18. (1) The Board may make rules for the purpose of carrying out or giving effect to the principles and provisions of this Act. The Board to make rules-

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1) the Board may make rules in respect of all or any of the following matters:—

(a) the registration of Institutions and the fees payable to the Board for such registration;

- (b) the forms to be used under this Act;
- (c) the regulation or prohibition of the issue by any Institution or any group or category of Institutions of any prospectus or advertisement soliciting the deposit of moneys from the public and the conditions subject to which such prospectus or advertisement may be issued.

the weekly, fortnightly or monthly payments as rentals, instalments, hire or otherwise), but does not include any agreement —

- (a) whereby property in the goods comprised therein passes at the time of the agreement or upon or at any time before delivery of the goods; or
- (b) under which a person by whom goods are being hired or purchased is a person who is engaged in the trade or business of selling goods of the same nature or description as the goods comprised in the agreement;

Delegation of powers of the Board.

19. Subject to and in accordance with such rules, if any, as may be made by the Board in that behalf the Board may in writing delegate to any officer of the Central Bank of Ceylon its authority to represent the Board for any of the purposes of this Act, so however that the Board shall remain and continue to be responsible for any act or thing done or omitted to be done by such officer.

Powers of the Minister in relation to the Board.

20. The Minister may give to the Board general or special directions in writing for the purpose of giving effect to the principles and provisions of this Act and the Board shall give effect to such directions.

This Act to prevail over other laws.

21. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other law.

Interpretation.

22. In this Act unless the context otherwise requires—

"appointed date " means the 6th day of December, 1979;

"capital" means paid-up capital and permanent free reserves, and shall include, if so determined by the Board, the face value of unsecured debentures and other loan bonds which, in the event of the winding up of the Institution, or the return or reduction of capital, shall rank after and be subordinated to deposits and other borrowings of the Institution and which shall not be reduced or repaid except with the consent of the Board ;

"goods " have the same meaning as in the Sale of Goods Ordinance ;

" hire-purchase agreement" means an agreement for the letting of goods with an option to purchase (whether the agreement describes

" hirer" means a person to whom the goods are let, hired or agreed to be sold under a hire-purchase agreement and includes a person to whom the rights or liabilities of the hirer under such agreement have passed by assignment or operation of law;

" Institution " means any person or body of persons, corporate or unincorporate, whose business or part of whose business consists in the acceptance of money by way of deposit, the payment of interest thereon and—

- (a) the lending of money on interest; or
- (b) the investment of money in any manner whatsoever; or
- (c) the lending of money on interest and the investment of money in any manner whatsoever;

" loan" includes any advance or the deferment of payment in any sale.or the deferment of payment in a transaction relating to a hire-purchase agreement;

" prescribed " means prescribed by rules made under this Act.

CHAPTER 115

COLLEGE OF GENERAL PRACTITIONERS

Law No. 26 of 1974, Act No. 51 of 1980. A LAW TO INCORPORATE THE COLLEGE OF GENERAL PRACTITIONERS OF SRI LANKA.

[19th August, 1974.]

Short title. **1.** This Law may be cited as the College of General Practitioners of Sri Lanka (Incorporation) Law. medical practice in any field and to undertake or assist others in undertaking such research;

Incorporation of the College of General Practitioners of Sri Lanka. **2.** On and after the 19th day of August, 1974, such and so many persons as now are members of the College of General Practitioners of Sri Lanka (hereinafter referred to as "the College") or shall hereafter be admitted members of the Corporation hereby constituted, (including the founder members whose names and addresses are set out in the Second Schedule to this Law), shall be, and become a Corporation with perpetual succession under the name of "The College of General Practitioners of Sri Lanka" (hereinafter referred to as "the Corporation") and by that name shall and may sue and be sued in all courts, with full power and authority to have and to use a common seal and to change and alter the same at its will and pleasure. (d) to encourage the publication by general medical practitioners of original work on medical or scientific subjects connected with general practice;

(e) to establish, maintain, manage and administer any institution for the purpose of providing or promoting courses of study and facilities for the education, instruction and training of medical practitioners, students preparing to qualify as medical practitioners, or persons employed or qualifying to be employed as ancillary personnel in hospitals, dispensaries, clinics, laboratories or similar institutions which have been established to assist medical practitioners in providing medical, surgical and health services; [§2,51 of 1980.]

General objects of the Corporation. **3.** The general objects for which the Corporation is constituted are hereby declared to be—

(a) to establish and maintain an academic and educational headquarters for general medical practitioners;

(b) to undertake or assist others in undertaking training courses or other educational activities designed to enhance the medical knowledge and skill of general medical practitioners in Sri Lanka;

(c) to encourage the carrying on by general medical practitioners of research into medical matters with a view to the improvement of general

(f) to construct, equip and maintain libraries and other buildings for the administrative, instructional, residential or any other purposes of the Corporation; [§2,51 of 1980.]

(g) to co-operate with other bodies not formed for profit in all matters relating to or connected with the attainment of the objects for which the Corporation is established;

(h) to collaborate with the Post-Graduate Medical Education Institute (established in affiliation with the University of Ceylon in accordance with the provisions of the

University of Ceylon Act, No. 1 of 1972*) in the granting of post-graduate diplomas as a whole or in any subject required to be covered in general practice, whether upon theses or upon outstanding work in or in connexion with general medical practice; and

[§2.51 of 1980.]

- (i) to do all such other acts and things as may be necessary for or conducive to the attainment and promotion of the objects of the Corporation:

Provided, however, that the objects for which the Corporation is established and the powers incidental thereto shall be subject to the following provisions, namely:—

- (i) the Corporation shall not support with its funds any object or endeavour to impose on or procure to be observed by its members or others any regulation, restriction or condition, which if it were an object of the Corporation would make it a trade union,
- (ii) the Corporation shall not attempt directly or indirectly to secure the passing of legislation to the effect that the passing of any examination under the aegis of the Corporation, or the holding of any diploma or other certificate issued by the Corporation, shall be a qualification to act as a registered medical practitioner.

Council of the Corporation.

4. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation made as hereinafter provided, be administered by a Council of the Corporation consisting of such office-bearers and other members as may be provided for in such rules and elected in accordance therewith.

(2) The founder members of the College whose names are set out in the Second Schedule to this Law shall be deemed to be the members of the first Council of the Corporation and shall hold office until the

* Repealed by Act No. 16 of 1978. First Schedule is omitted.

first annual general meeting of the Corporation held after the coming into operation of this Law.

5. (1) The Council of the Corporation shall cause to be kept a register in which every person who at the date of the passing of this Law is a member of the Corporation, and every person thereafter duly admitted a member of the Corporation hereby constituted, shall have his name inscribed. Register of members.

(2) The register shall contain the following particulars:—

- (a) the name and address of each member;
- (b) the date on which the member was enrolled as a practitioner;
- (c) the professional qualifications of, and the degrees conferred on, the member;
- (d) the date on which the name of any person was inscribed in the register as a member ; and
- (e) the date on which any person ceased to be a member.

6. (1) It shall be lawful for the Corporation, from time to time, at any general meeting of the members and by the votes of not less than two-thirds of the members present and voting, to make rules, not inconsistent with the provisions of this Law, and pass resolutions, for the admission, withdrawal or expulsion of members, for the conduct of the duties of the Council of the Corporation and of the various officers, agents, and servants of the Corporation, and otherwise generally for the management of the affairs of the Corporation and the accomplishment of its objects. Such rules and resolutions when made and passed may, at a like meeting and in like manner, be altered, added to, amended or rescinded. Power to make rules.

(2) Subject to the provisions of subsection (1), the rules set out in the First Schedule! to this Law shall be deemed to be

the rules of the Corporation made under this section and may be altered, added to, amended, rescinded or replaced by rules made under this Law.

(3) All members of the Corporation shall be subject to the rules in force for the time being of the Corporation,

Accounts of the Corporation.

7. The Council of the Corporation shall cause proper accounts to be kept of all sums of money received and expended by the Corporation, and the accounts of the Corporation shall be examined and audited once at least every year, and the correctness of the Income and Expenditure Account and Balance Sheet certified, by one or more duly qualified auditor or auditors.

Debts due by, and payable to the College.

8. All debts and liabilities of the College existing on the 19th day of August, 1974, shall be paid by the Corporation hereby constituted, and all debts due to, and subscriptions and contributions payable to, the College on the said date shall be paid to the Corporation.

Application of moneys and property.

9. The moneys and property of the Corporation, whencesoever derived, shall be applied solely towards the promotion of its objects as set forth herein and no portion thereof shall be paid or transferred directly or indirectly, by way of dividend, bonus, or otherwise howsoever by way of profit, to the members of the Corporation.

Power of Corporation to hold property.

10. The Corporation shall be able and capable in law to acquire and hold either as beneficial owner or trustee or otherwise any property, movable or immovable, upon or by virtue of any instrument of purchase, grant, gift, or lease, or upon or by virtue of any testamentary disposition or otherwise, and all such property shall be held by the Corporation for the purposes of this Law and subject to the rules for the time being of the Corporation, or otherwise for the purposes of and upon the trusts and subject to the conditions in the relative instrument or disposition contained, with full power (subject always to the provisions of any written law relating to trusts and of the relative instrument or disposition) to sell, mortgage, lease, exchange or otherwise dispose of, encumber or charge the same.

11. It shall be lawful for the Corporation— Power to acquire property, invest funds, raise loans, &c.

(a) to purchase, acquire, rent, construct and otherwise obtain lands or buildings which may be required for the purposes of the Corporation and may lawfully be acquired for those purposes, and to deal with or dispose of the same as may be deemed expedient with a view to promoting the objects of the Corporation;

(b) to invest any funds not immediately required for the purposes of the Corporation in such manner as the Corporation may think fit and from time to time to vary and transpose any such investments ;

(c) to raise or borrow money for the purposes of the Corporation on any security and to secure or discharge any debt or obligation of the Corporation in such manner as may be thought fit;

(d) to accept grants intended for the pursuance of the objects of the Corporation;

(e) to subscribe or guarantee money for any charitable purpose; and

(f) to undertake, accept, execute, perform and administer any lawful trusts and conditions affecting any real or personal property held or owned or to be held or owned in trust for the Corporation or any other charitable association, institution, society or body and any other charitable trusts.

12. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of two members of the Council of the Corporation who shall sign their names on the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness. Seal of the Corporation.

Limitation of liability of members.

13. No member of the Corporation shall, for the purpose of discharging the debts and liabilities of the Corporation, or for any other purpose, be liable to make any contribution exceeding the amount of such annual membership fees as may be due from him to the Corporation.

its or their members. Such institution or institutions shall be determined by the members of the Corporation at or immediately before the time of the dissolution of the Corporation. If such property or any part thereof cannot be disposed of in accordance with the provisions of this section, such property or part shall be applied to some charitable object which shall be determined by the members of the Corporation.

Property remaining on dissolution.

14. If upon the dissolution of the Corporation there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, such property shall not be distributed among the members of the Corporation, but shall be given or transferred to some other institution or institutions having objects similar to the objects of the Corporation, and which is or are by the rules thereof prohibited from distributing any income or property among

15. Nothing in this Law contained shall affect or be deemed to affect the rights of the Republic or of any body politic or corporate or of any other persons except such as are mentioned in this Law and those claiming by, from or under them.

Saving of the rights of the Republic and others.

[Section 2.]

*SECOND SCHEDULE

FOUNDER MEMBERS

1. Dr. Mannemarakkalage Philip Michel Cooray. L.R-C.P. (Lend.) ; M.R.C.S. (Eng.) ; M.B.B.S. (Lend.) ; 14, Selbburne Road, Colombo 3.
Date of Enrolment as a Practitioner—28th July, 1938.
2. Dr. Bentarawadumeslige Don Jayaratne de Silva, M.B.B.S. (Cey.); Central Dispensary & Surgery, Maharagama.
Date of Enrolment as a Practitioner—1949.
3. Dr. Kumarasinghe Aratchige Don Reginald James Daniel Peiris, Diploma of Licence of the Ceylon Medical College ; L.M. & S. (Cey.); 757, Bloemendhal Road, Colombo 15.
Date of Enrolment as a Practitioner—28th March, 1942.
4. Dr. Gankande Muhandiramege Heennilame, M.B.B.S. (Cey.) ; 3, 2nd Galpotta Lane, Nawala.
Date of Enrolment as a Practitioner—26th August, 1949.
5. Dr. Leslie Sumanasinghe Kotagama, M.B.B.S. (Cey.); M.R.C.P. (Glas.); D.C.H. (Eng.); 7, Race Course Avenue, Colombo 7.
Date of Enrolment as a Practitioner—April, 1954.
6. Dr. Theagarajah Nagendra, L.M.S. (Cey.) ; 106/3, Rosmead Place, Colombo 7.
Date of Enrolment as a Practitioner—March, 1935.
7. Dr. Mohamed Sheriff Mohamed Refai, M.B.B.S. (Cey.); D.L.O.R.C.S. (Eng.); R.C.P. (Lond.) ; " Alcazar ", 116, Horton Place, Colombo 7.
Date of Enrolment as a Practitioner—August, 1943.
8. Dr. A. H. Hazari, M.B.B.S. (Cey.); 10, Asoka Gardens, Colombo 4.
Date of Enrolment as" a Practitioner—February, 1956.
9. Dr. Athukorala Mudianselage Karunaratne, M.B.B.S.. D.T.M.& H.; 14/2, Park Street, Colombo 2.
Date of Enrolment as a Practitioner—January, 1951.

* First Schedule is omitted.

10. Dr. Austin Maurice Fernando, L.M.S. (Cey.); 108, Galle Road, Dehiwela.
Date of Enrolment as a Practitioner—4th August, 1933.
11. Dr. Mylvaganam Sivasuriam, M.B.B.S. (Cey.) ; 47A, Waraluppe Main Road, Ratnapura.
Date of Enrolment as a Practitioner—March, 1956.
12. Dr. Richard Perera Wijeratne. M.D., L.M.S., 152, Kynsey Road, Colombo 8.
Date of Enrolment as a Practitioner—March, 1934.
13. Dr. Hector Jayalath, M.B.B.S. (Cey.), D.C.H. (Lond.) ; 412, Main Street, Negombo.
Date of Enrolment as a Practitioner—December, 1952.
14. Dr. Riley Michael Lytton Fernando, M.B.B.S. (Cey.), 44, Colombo Road, Kurunegala.
Date of Enrolment as a Practitioner—September, 1951.
15. Dr. Jayasumana Warusavitarana, M.B.B.S. (Cey.), 451/2, Havelock Road, Colombo 6.
Date of Enrolment as a Practitioner—20th November, 1951.
16. Dr. Don Peter Kannangara, L.M.S., 115, Main Road, Kegalle.
Date of Enrolment as a Practitioner—1937.
17. Dr. Athukorallage Don Peter Albert Wijegoonewardene, L.M.S. (Cey.), D.C.H., R.C.P. & R.C.S. (Eire),
7, Borella Cross Road, Borella.
Date of Enrolment as a Practitioner—June, 1932.
18. Dr. Don Hector Perera Rajapaksa Senanayake, M.B.B.S. (Cey.), 50/5B, Siripa Road, Colombo 5.
Date of Enrolment as a Practitioner—April, 1951.

CHAPTER 339

CEILING ON HOUSING PROPERTY

Laws Nos. 1 of 1973, 34 of 1974, 18 of 1976, 9 of 1977, Act No. 56 of 1980. A LAW TO REGULATE THE OWNERSHIP, SIZE AND COST OF CONSTRUCTION OF HOUSES AND TO PROVIDE FOR MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH. [13lh January, 1973.]

Short title. 1 This Law may be cited as the Ceiling on Housing Property Law.

(b) a house not exceeding five hundred square feet in floor area situated in an estate owned by a public company and occupied by an employee thereof shall not be taken into account in determining for the purposes of this Law the number of houses owned by such public company ; and

PART I

REGULATION OF OWNERSHIP OF HOUSES

Permitted number of houses. 2. (1) The maximum number of houses which may be owned by an individual who is a member of a family shall be such number of houses which together with the number of houses owned by the other members of that family is equivalent to the number of dependent children, if any, in that family, increased by two.

(c) a house owned by a body of persons which is let by such body to a person other than an employee or functionary of such body shall not be taken into account in determining the number of houses necessary for the purpose of providing residence to the employees and functionaries of such body. [§ 2. Law 34 of 1974.]

(2) The maximum number of houses which may be owned by an individual who is not a member of a family shall be two.

(4) The maximum number of houses which may be owned by any person according to the preceding provisions of this section is hereinafter referred to as the " permitted number of houses ".

[§ 2, Law 34 of 1974.]

(3) The maximum number of houses which may be owned by any body of persons, corporate or unincorporate, shall be such number of houses as is from time to time determined by the Commissioner to be necessary for the purpose of providing residence to the employees and functionaries of such body or of carrying out the objects (other than any object for the letting of houses on rent) of such body:

(5) An individual shall for the purposes of this Law be deemed to be a member of a family if such individual has a spouse or a dependent child or is a dependent child of any individual.

Provided, however, that—

(a) the preceding provisions relating to the maximum number of houses that may be owned, shall not apply to a local authority, a Government Department or a public corporation;

2A. (1) Every body of persons which owns houses shall apply to the Commissioner, giving such particulars as are necessary for the purpose, for the determination of the maximum number of houses which, in accordance with the provisions of Applications by bodies of persons for the drtermination of permitted number of houses. [§ 3. Law 34 of 1974-]

subsection (3) of section 2, may be owned by such body. Such application shall be made—

(a) in the case of a body of persons owning houses on the date of commencement of this Law or becoming the owner of houses on any day after such date and before November 1, 1974, before such date as may be fixed for the purpose by the Minister by Notification published in the Gazette ; and

(b) in the case of a body of persons becoming the owner of houses on or after November 1, 1974, within four weeks of so becoming the owner of houses:

Provided that it shall not be necessary for any body of persons to make a fresh application under the preceding provisions of this subsection, if prior to the coming into operation of this section such body has applied to the Commissioner for a determination of the maximum number of houses that may be owned by such body.

(2) Where any body of persons becomes entitled to own any house in excess of the maximum number of houses as previously determined by the Commissioner or by the Board of Review, as the case may be, such body shall apply to the Commissioner for a further determination of the maximum number of houses that may be owned by such body.

3. In determining the number of houses for the purposes of section 2—

(1) a house which belongs to a religious organization or charitable trust or which is part of an industrial, commercial or agricultural concern shall be excluded, if, and only if, such house is in the opinion of the Commissioner used exclusively for the purposes of such religious organization, trust or concern;

(2) a person who, on or after the date of commencement of this Law, becomes the owner of more than one-half share of any house owned in undivided shares shall be deemed to own such house;

(3) a person who, on or after the date of commencement of this Law,

becomes the owner of not more than one-half share in more than one house owned in undivided shares, shall be deemed to own the number of houses in which he owns such shares, reduced by one;

(4) a person who, prior to the commencement of this Law, owned shares in houses owned in undivided shares, shall be deemed to own such number of houses as is equivalent to the aggregate of such shares:

Provided however that, where such aggregate comprises a fraction—

(o) such fraction shall be disregarded if it does not exceed one-half,

(b) if such fraction exceeds one-half, such person shall be deemed to own such number of houses as is equivalent to the aggregate of such shares computed to the nearest whole number;

(5) a person who, on or after the date of commencement of this Law, becomes the owner of a sub-divided portion of a house shall, by virtue of his ownership of such sub-divided portion, and notwithstanding anything to the contrary in section 47, be deemed to own a house.

4. (1) Where any person constructs a house for the purpose of sale, he shall not be deemed for the purposes of this Law to own such house if such house is not occupied before it is sold, and it is sold within twelve months of the date on which such house was, in the opinion of the Commissioner, ready for occupation, or within such extended period, not exceeding a further period of twelve months as may be allowed by the Commissioner on application made by such person.

(2) Where any person constructs a house for the purpose of sale, being a house comprised in a housing project approved by the Minister by Order published in the Gazette as being essential to the implementation of the housing development

Determination of number of houses in certain cases.

[§ 4, Law 34 of 1974.]

[§ 2, Law 18 of 1976.]

[§ 4, Law 34 of 1974.]

[§ 2, Law 18 of 1976.]

[§ 4, Law 34 of 1974.]

Persons who construct houses for sale not deemed to own such houses. [§ 3, Law 18 of 1976.]

[§ 2, 56 of 1980.]

policy of the Government, such person shall be deemed, for the purposes of this Law, not to own such house if—

- (a) such house is not occupied by such person before it is sold ; and
- (b) such house is sold within twenty years of the date on which it was, in the opinion of the Commissioner, ready for occupation.

Reduction of number of houses.

5. Where any person who owned a number of houses on November 9, 1971, has, after such date and before the date of commencement of this Law, reduced the number of houses owned by him otherwise than by outright sale or gift, such person shall be deemed to own the number of houses he owned on November 9, 1971, unless he satisfies the Commissioner that he had taken steps to so reduce the number of houses prior to November 9, 1971, or had reduced such number for the purpose of providing accommodation to the members of his family.

Amalgamation of houses-

6. Where any person who owns the permitted number of houses applies to the Commissioner for the amalgamation of two or more houses, the Commissioner may, with the concurrence of the relevent authority, grant permission so to do if the Commissioner is satisfied, that such amalgamation is justified having regard to the requirements of housing accommodation of the family of such person, and if any of such houses is not let to a tenant.

Houses on leased lands.

7. A person shall, for the purposes of this Law, be deemed to be the owner of a house notwithstanding that such house was constructed by him on land leased to him by the Government or by any other person.

Declaration by owners of houses in excess of the permitted number of houses and vesting of such houses if no declaration or correct declaration is made.

8. (1) Every individual who is not a member of a family and who owns houses in excess of the permitted number of houses on the date of commencement of this Law shall, within twelve weeks of such date, and every body of persons owning houses in excess of the permitted number of houses on such date shall, within six weeks of the date on which the determination under this Law by the Commissioner, or as the case may be, by the Board of Review, of the maximum

number of houses that may be owned by such body was communicated to such body, send by registered post to the Commissioner a declaration —

- (a) specifying the number of houses owned by such individual or body including houses owned in undivided shares;
- (b) specifying the houses the ownership of which such individual or body proposes to retain; and
- (c) giving such particulars relating to the houses referred to in paragraph (a) as are set out in the Schedule hereto.

Such individual or body shall simultaneously intimate in writing to the tenant, if any, of each house the ownership of which such individual or body does not propose to retain that the ownership of such house is not proposed to be retained.

(2) Where houses in excess of the permitted number of houses are owned on the dale of commencement of this Law by the members of a family, the male spouse, or where such male spouse is not living or is not capable in law so to do, the female spouse, shall within twelve weeks of such date, send by registered post to the Commissioner a declaration—

- (a) specifying the number of houses owned by each member of such family including houses owned in undivided shares;
- (b) specifying the houses the ownership of which the members of such family propose to retain; and
- (c) giving such particulars relating to the houses referred to in paragraph (a) as are set out in the Schedule hereto.

Such spouse shall simultaneously intimate in writting to the tenant, if any, of each house owned by each member of such family the ownership of which is not proposed to be retained that the ownership of such house is not proposed to be retained.

(3) Where the person sending the declaration under subsection (2) is not the owner of any house the ownership of which

is not proposed to be retained, the declaration shall be accompanied by a statement of consent from the owner of such house. Where such owner does not give such consent, the Commissioner shall, after due inquiry, determine the houses the ownership of which shall be retained by the members of the family.

[§4. Law 18 of 1976.]

(3A) Where the Commissioner has reason to believe that houses in excess of the permitted number of houses were owned by any person who has not made a declaration as required by subsection (1) or subsection (2), the Commissioner shall by a notice served on such person require such person to furnish the requisite declaration together with any other particulars in such manner as may be specified by the Commissioner within a period of six weeks from the date of service of such notice. A person who fails to furnish such declaration and such other particulars within such period shall be guilty of an offence under this Law, and shall, on conviction after trial before a Magistrate, be liable to a fine not exceeding one thousand rupees and to a further fine of one hundred rupees for every day on which such offence is continued after conviction.

(4) Any person who has, without reasonable cause, failed to send the declaration within the period referred to in subsection (1) or subsection (2), as the case may be, or has made any incorrect declaration in regard to the number of houses owned by him or by his family, as the case may be, shall be guilty of an offence under this Law, and any such house owned by such person or by any member of the family of such person as may be specified by the Commissioner by Notification published in the Gazette shall vest in the Commissioner with effect from such date as may be specified therein.

(5) Any house the ownership of which is not proposed to be retained in terms of any declaration made under this section, and in the case of a determination made by the Commissioner under subsection (3), any house the ownership of which is not retained as a result of such determination, is hereinafter referred to as a " surplus house ".

[§ 4, Law 18 of 1976-]

(6) Where the ownership of any surplus house has been transferred by way of sale,

gift, lease or other alienation, without the owner thereof having intimated in writing to the tenant thereof, as required by subsection (1) or subsection (2), that the ownership of such house is not proposed to be retained by him, and such tenant makes an application to the Commissioner to purchase such house the Commissioner may, with the approval in writing of the Minister, by Order published in the Gazette vest such house in the Commissioner with effect from such date as may be specified in such Order.

(7) The Commissioner may, where he deems it necessary, by a notice served on any person who has made a declaration under subsection (1) or subsection (2), require such person to furnish any further particulars in such manner as may be specified by the Commissioner within a period of six weeks from the date of service of such notice. Any person who fails to furnish such particulars within such period shall be guilty of an offence under this Law.

[§ 4, Law 18 of 1976-]

9. The tenant of a surplus house or any person who may succeed under section 36 of the Rent Act to the tenancy of such house may, within four months from the date of commencement of this Law, apply to the Commissioner for the purchase of such house.

Tenants may apply to purchase surplus houses.

10. Where, on the date of commencement of this Law, any person owns any house in excess of the permitted number of houses, such person may, if such person is an individual, within a period of twelve months from such date, and if such person is a body of persons, within a period of six months of the date on which the determination under this Law by the Commissioner or as the case may be, by the Board of Reveiw, of the maximum number of houses that may be owned by such body was communicated to such body, or where such body applies for, and is granted an extension of time by the Commissioner, within six months from November 1, 1974, dispose of such house with notice to the Commissioner, unless the tenant of such house or any person who may under section 36 of the Rent Act succeed to the tenancy of such house, has made application with simultaneous notice to the owner for the purchase of such house.

Houses in excess of the permitted number of houses may be sold within twelve months. [§ 5, Law 34 of 1974.]

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Vesting of houses in excess of the permitted number of houses.
[§ 6, Law 34 of 1974.]

11. (1) Any house owned by any person in excess of the permitted number of houses which has not been disposed of within the period within which such person may dispose of such house in accordance with the provisions of section 10 shall on the termination of such period vest in the Commissioner:

Provided, however, that where the Commissioner, on application made to him by the owner of the house, is satisfied that the failure to dispose of the house was due to circumstances beyond the control of the owner, the Commissioner may, by Notification published in the (gazette, defer the vesting of the house for a further period not exceeding twelve months.

(2) Where any person becomes on any day after the date of commencement of this Law the owner of a house in excess of the permitted number of houses, he shall forthwith so notify to the Commissioner and specify the house the ownership of which he does not propose to retain, and such house shall, with effect from such date as may be specified by the Commissioner by Notification published in the Gazette, vest in the Commissioner, unless prior to such date and with the permission of the Commissioner he has disposed of such house to the tenant thereof or where such tenant refuses to purchase it, to any other person.

[§ 6, Law 34 of 1974.]

(3) Where on any day after the date of commencement of this Law any person becomes entitled to own any house in excess of the permitted number of houses as on such date, he shall so notify to the Commissioner who may, if any house owned by such person and vested in the Commissioner under the provisions of this Law continues to be so vested at the time of such notification, by Order published in the Gazette, divest himself of the ownership of such house, and on the publication in the Gazette of such Order, such house shall be deemed never to have vested in the Commissioner.

[§ 5, Law 18 of 1976.]

(4) Where under this Law, only a share in a house owned in undivided shares vests in the Commissioner, the entirety of such house shall be deemed to vest in the Commissioner; and such house shall, before it is sold by the Commissioner to any person other than the tenant thereof, be offered for sale to the person or persons who owned shares in such house prior to such vesting.

12. (1) Any house vested in the Commissioner under this Law may be transferred by the Commissioner to any local authority, Government department or public corporation, subject to such terms and conditions as the Minister may determine.

Vested houses.

(2) Any house vested in the Commissioner under this Law shall, if the Commissioner proposes to sell such house, be offered for sale, in the first instance, to the tenant, if any, of such house, and where the tenant does not accept such offer, the Commissioner may sell such house to any other person. Where any house vested in the Commissioner is at the time of vesting not let to a tenant, the Commissioner may sell such house to any person.

[§ 7, Law 34 of 1974]

12A. (1) Notwithstanding anything in this Law, the Commissioner may, if he deems it just and equitable in the circumstances of the case, by an instrument of disposition signed by him, transfer any house—

Power of Commissioner to transfer certain houses to the tenants of such houses.
[§ 2, Law 9 of 1977.]

- (a) which has vested in him under section 8 (4) or section 11; and
- (b) the standard rent of which does not exceed twenty-five rupees per month; and
- (c) which is situated in an area which, in the opinion of the Commissioner, may be required for the purposes of redevelopment,

to the tenant of such house and such tenant shall not be required to make any payment in consideration of such transfer. Such instrument of disposition shall be subject to the provisions of subsection (2) and to such conditions as may be prescribed. No stamp duty shall be payable in respect of such instrument.

(2) Where the Commissioner is of the opinion that any house transferred under subsection (1) is required for the purposes of the redevelopment of the area in which such house is situated, he may, by Notification published in the Gazette, cancel, with effect from such date as may be specified in such Notification, the instrument of disposition by which such house was so transferred. Upon the cancellation of any such instrument, the title to the house in respect

of which such instrument was executed shall revert to, and vest in, the Commissioner, free from all encumbrances.

(3) The Commissioner shall transmit, or cause to be transmitted, a copy of every Notification referred to in subsection (2), to the Registrar of Lands of the district in which the house transferred by the instrument of disposition referred to in such Notification, is situated, and such Registrar shall make the necessary entries in the register relating to such house.

(4) Where the Commissioner cancels any instrument of disposition under subsection (2), he shall take all necessary steps to provide, upon such terms and conditions as may be determined by him, alternate accommodation for any person in whose favour such instrument was executed and who, at the time of such cancellation, was in occupation of the house in respect of which such instrument was executed.

(5) Upon the transfer of any house under subsection (1), any agreement for the sale of such house entered into between the Commissioner and the tenant of such house, under section 17, shall be deemed to be cancelled, and the Commissioner shall not be liable to refund to such tenant any payments made by such tenant in pursuance of such agreement.

(6) Every Notification made under subsection (2) shall be final and conclusive and shall not be called in question in any court, and the provisions of section 39 shall not apply to, and in relation to, such Notification.

(7) In this section, "house" includes such extent of land and such rights as is, or are, appurtenant to such house, and is, or are, described in any instrument of disposition transferring such house.

Applications by tenants for purchase of certain houses.

13. Any tenant may make application to the Commissioner for the purchase of the house let to him where no action or proceedings may under the Rent Act be instituted for the ejection of the tenant of such house on the ground that such house is reasonably required for occupation as a

residence for the landlord of such house or for any member of his family:

Provided, however, that where the application made is to purchase a house in respect of which an application may be made under section 14 (1), the Commissioner shall not take any action in respect of the application made unless the owner of such house consents to the sale of such house; and such consent may be withheld under this Law in respect of only one of the permitted number of houses.

For the purposes of this section and section 12, "tenant" includes a tenant in whose favour an order for the delivery of possession of a house has been made under section 5 of the Protection of Tenants (Special Provisions) Act.

In this section, the expression "house" does not include a house owned by a local authority, a Government department or a public corporation. [§ 6. Law 18 of 1976.]

- 13A.** (1) Where the owner of a house— Applications to purchase houses of persons who have left Sri Lanka, &c. [§ 7, Law 18 of 1976.]
- (a) has left Sri Lanka, and has either renounced citizenship of Sri Lanka or has ceased to be a citizen of Sri Lanka under the Citizenship Act; or
 - (b) has been residing abroad for a continuous period of ten years otherwise than as an employee of the Government of Sri Lanka or of any foreign government or of any international institution; or
 - (c) has left Sri Lanka for the purpose of settling abroad; or
 - (d) is not in existence or is not known or cannot be traced,

the tenant of such house may apply to the Commissioner for the purchase of such house,

(2) Notwithstanding anything in section 17, where a tenant makes an application under subsection (1) for the purchase of a house and such tenant proves to the satisfaction of the Commissioner—

- (a) that he has been the tenant of such house for not less than five years prior to the date of such application; and

(b) that he was not during the period commencing on January 13, 1973, and ending on the date of such application, the owner of a house, for the ejection of the tenant of which, no action or proceeding may be instituted under the Rent Act on the ground that such house is required for occupation as a residence for the landlord of such house or for any member of the landlord's family,

the Commissioner shall publish a notice in the Gazette and in one Sinhala newspaper, one Tamil newspaper and one English newspaper circulating in Sri Lanka, stating that an application has been made under subsection (1) for the purchase of such house.

(3) The notice referred to in subsection (2) shall—

- (a) contain adequate particulars and description of the house in respect of which the application has been made,
- (b) state that written objections to the application may be made to the Commissioner; and
- (c) specify the period within which such objections may be made such period being not more than three months from the date on which such notice is published.

(4) Where any written objections are made to the Commissioner under subsection (3), the Commissioner shall give the objector an opportunity of being heard in support of such objections.

(5) After considering the written objections, if any, made under subsection (3), the Commissioner shall make a report to the Minister on the application and shall, *inter alia*, state as to whether—

- (a) such house is situated in an area which, in his opinion, will not be required for slum clearance, development or for any other public purpose;
- (b) it is feasible to alienate such house as a separate entity;

(c) the applicant is in a position to make the purchase; and

(d) the owner of such house had a spouse or dependent child residing in Sri Lanka on the date when such application was made.

(6) After considering the report made to him under subsection (5), the Minister may, if he is satisfied having regard to all the circumstances of the case that the application should be allowed, by Order published in the Gazette vest such house in the Commissioner with effect from such date as may be specified therein.

(7) The provisions of subsections (2), (3), (3A) and (3B) of section 17, shall, *mutatis mutandis*, apply to the sale of any house vested in the Commissioner by an Order made under subsection (6) of this section.

14. (1) Any person may make application to the Commissioner for the sale to the Commissioner of any house, owned by such person, if —

Sale of certain houses to the Commissioner by owners.

- (a) such house is let to a tenant and is within the permitted number of houses;
- (b) the standard rent per month of such house does not exceed one hundred rupees;
- (c) the ownership of such house was acquired by such person by construction or purchase before the specified date, or by gift or inheritance from a grandparent, a parent or spouse who had acquired ownership of such house before the specified date; and

[§ g, Law 34 of 1974]

(d) such person is not entitled to institute action or proceedings under the Rent Act for the ejection of the tenant of any other house on the ground that such house is reasonably required for occupation as a residence for him or for any member of his family.

In this subsection, "specified date" means the date on which the tenant, for the time being, of the house, or the tenant upon whose death the tenant for the time being succeeded to the tenancy under section 36 of the Rent Act or section 18 of the Rent Restriction Act*, came into occupation of the house.

* Repealed by Act No. 7 of 1972.

(2) No person may, on application made under subsection (1), be entitled to sell to the Commissioner under this Law more than one of the permitted number of houses unless the Commissioner is satisfied that any additional house for the sale of which an application is made under subsection (1) will be purchased by the tenant of such house at the price payable therefor by the Commissioner.

(3) Where an application is made under subsection (1) and the applicant is prepared to sell such house on such terms and conditions as may be determined by the Commissioner, including a condition that the proceeds of the sale of such house shall be utilized for the construction or purchase of a house, the Commissioner shall so notify to the Minister who may, by Order published in the Gazette, vest such house in the Commissioner with effect from such date as may be specified in the Order.

(4) Where in respect of any house, applications have been made both under section 13 and this section, the application under section 13 shall not be proceeded with and it shall be deemed that only an application under this section has been made in respect of such house.

Date of vesting and title to houses vested.

15. (1) Before the date specified by the Commissioner or by the Minister under this Law, as the date on which any house vests in the Commissioner, the Commissioner or the Minister, as the case may be, may from time to time, alter, by Notification or Order, as the case may be, published in the Gazette, the date on which such house shall so vest.

(2) Where any house is vested in the Commissioner under this Law, the Commissioner shall have absolute title to such house and free from all encumbrances, and such vesting shall be final and conclusive for all purposes against all persons whomsoever, whatever right or interest they have or claim to have to, or in, such house:

Provided, however, that—

(a) the local authority of the area in which the house is situated shall have a lien on the amount payable to the owner of the house as the

price of the house, for the recovery of any rates or taxes payable to the local authority by the owner in respect of the house ;

(b) where the house was at the time of vesting subject to a mortgage, the mortgagee shall have a lien on the amount referred to in paragraph (a), for the recovery of any sum due to him; and

(c) where the house or the land appurtenant thereto was at the time of vesting subject to any servitude in favour of any other property or person, such servitude shall not be deemed to be extinguished by such vesting- [§ 9, Law 34 of 1974]

15A. Where a house, for the purchase of which an application may be or could have been made to the Commissioner under this Law by the tenant thereof or by the person who may succeed to the tenancy thereof under section 36 of the Rent Act is, after the date of commencement of this Law, purchased by such tenant or person directly from the owner thereof, the title of such tenant or person to such house shall be as if such tenant or person had purchased such house from the Commissioner after it was vested in the Commissioner under this Law; and where the preceding provisions of this section apply to a house, a certificate to that effect may be issued by the Commissioner on payment of the prescribed fee, if an application for such certificate is made by such tenant or person or by any other person deriving title to such house from such tenant or person. Title to houses Purchased directly from owners. [§ 10, Law 34 of 1974]

16. (1) Where any house which is not a flat or a tenement is vested in the Commissioner under this Law, there shall also be vested in the Commissioner such extent of land and such rights as is or are in the opinion of the Commissioner reasonably appurtenant to the house. Vesting of appurtenant and adjoining lands. [§ 8, Law 18 of 1976.]

(2) Where any flat is vested in the Commissioner under this Law, there shall also be vested in the Commissioner the land and other rights as are appurtenant to the flat.

(3) Where any tenement is vested in the Commissioner under this Law, there shall also be vested in the Commissioner such extent of land and such rights as in the opinion of the Commissioner, is or are appurtenant to the tenement.

determined under this Law as the price payable for such house to the former owner and an additional sum of five *per centum* of such amount to cover the costs incurred by the Commissioner;

[§ II, Law 34 of 1974.]

(4) Where any tenement or flat is vested in the Commissioner under this Law, there shall also be vested in the Commissioner such extent of land adjoining or adjacent to the tenement or flat as was, in the opinion of the Commissioner, used in common by all or some of the tenants of the tenement or flat immediately prior to the commencement of this Law; and any sale, gift, lease or other alienation of such extent of land or part thereof made on or after the date of commencement of this Law except with the written permission of the Commissioner shall be null and void.

(b) that until the amount payable as the price of such house is finally determined under this Law, the applicant shall make to the Commissioner a monthly payment of an amount not less than the monthly rent payable for such house, which payment shall be set off against the amount payable as the price of such house;

(c) that the applicant shall be responsible for the repairs to, and the maintenance of, the house and shall insure the house against loss or damage by fire, civil commotion and riot and pay all rates and taxes due to any local authority ; and

Applications to purchase houses.

17. (1) Where an application has been made under this Law for the purchase of a house, and the Commissioner is satisfied—

such other conditions as may be determined by the Commissioner.

(a) that such house is situated in an area which in his opinion will not be required for slum clearance, development or redevelopment or for any other public purpose;

(3) Where the applicant fails to comply with any of the aforesaid conditions, the agreement shall be deemed to be null and void and the applicant shall pay to the Commissioner such costs as may have been incurred by the Commissioner in respect of the application.

(b) that it is feasible to alienate such house as a separate entity; and

(c) that the applicant is in a position to make the purchase,

(3A) Where the applicant complies with [§ 9, Law 18 of the aforesaid conditions, the Commissioner 1976]

[§ 9, Law 18 of 1976.]

the Minister may, on being so notified by the Commissioner, by Order (hereinafter referred to as a "vesting Order") published in the Gazette vest such house in the Commissioner with effect from such date as may be specified therein.

shall transfer such house together with such extent of land and such rights as is or are appurtenant thereto, to the applicant by an instrument of disposition signed by the Commissioner, subject to the applicant paying the costs of the survey plan and any other document connected with such transfer. No stamp duty shall be payable in respect of the instrument of disposition.

(2) As soon as may be after a house is vested in the Commissioner under subsection (1), the Commissioner shall enter into an agreement with the applicant for the sale of such house to the applicant, subject to the following conditions:—

(3B) Notwithstanding the provisions of [§ 9, Law 18 of subsection (2) the Commissioner may, 1976-]

(a) that the applicant shall pay to the Commissioner a lump sum or on rent purchase terms or in such instalments as may be determined by the Commissioner, the amount

where he considers it expedient to do so, transfer a house vested in him under subsection (1) to the applicant on the payment to the Commissioner by the applicant of the prescribed part of the amount determined under this Law as the price payable for such

house to the former owner, subject to the condition that the applicant shall execute a mortgage of such house in favour of the Commissioner or any State lending institution specified by the Commissioner, for the payment of the unpaid part of such amount and an additional sum of five *per centum* of such amount.

[§ 9, Law 18 of 1976.]

(4) The provisions of subsections (2), (3), (3A) and (3B) shall *mutatis mutandis* apply in the case of the sale of a house to a tenant who accepts the offer made under section 12 and in the case where the Commissioner proposes to sell any house vested in him under this Law to any other person.

Divesting the ownership of houses vested in the Commissioner. [§ 12, Law 34 of 1974.]

17A. (1) Notwithstanding that any house is vested in the Commissioner under this Law, the Commissioner may, with the prior approval in writing of the Minister, by Order published in the Gazette, divest himself of the ownership of such house, and on publication in the Gazette of such Order, such house shall be deemed never to have vested in the Commissioner.

(2) Where any house has vested in the Commissioner under section 11 and the person who was the owner thereof immediately prior to such vesting makes application to the Commissioner requesting that he be allowed a further period of time to dispose of such house, the Commissioner may, if satisfied that adequate grounds exist for granting such request and with the approval in writing of the Minister, by Order published in the Gazette, divest himself of the ownership of such house, and on publication of such Order in the Gazette, such house shall be deemed never to have vested in the Commissioner. Where such person fails to dispose of such house within a period of twelve months from the date on which the Order divesting the Commissioner of the ownership of such house was published in the Gazette, the Commissioner may by Order published in the Gazette, vest such house in the Commissioner with effect from such date as may be specified therein.

Register of vested houses. [§12, Law 34 of 1974.]

17B. The Commissioner shall maintain a register of houses vested in him under this Law and such register shall be open to the public for inspection on payment of the prescribed fee.

17C. No house purchased from the Commissioner under this Law may, for a period of five years from the date of such purchase, be sold, gifted or leased to any person other than a child or spouse of the purchaser thereof, except with the prior permission in writing of the Commissioner granted in case of extreme hardship; and where any such house is sold, gifted or leased to any such child or spouse, such child or spouse shall not sell, gift or lease such house to any person until after the lapse of a period of five years from the date of purchase from the Commissioner by the original purchaser:

Restriction on transfer of houses purchased from the Commissioner. [§ 12, Law 34 of 1974.]

Provided, however, that the preceding provisions of this section shall not apply to the sale of any house purchased by any person with moneys partly or wholly provided by a prescribed State institution on a mortgage of such house created in favour of such institution, where such sale is consequent on any default in the payment of the moneys due on such mortgage.

17D. Where a loan is granted by the Commissioner to the purchaser of a house vested in the Commissioner under this Law, on a mortgage of such house, the provisions of sections 73 to 89 of the National Housing Act shall apply, *mutatis mutandis*, where default is made in the payment of any sum due on such loan, whether that sum is due on account of principal or interest or both.

Certain sections of the National Housing Act to apply to mortgages of houses purchased from the Commissioner. [§12, Law 34 of 1974.]

17E. Where the Commissioner provides or maintains any amenities or services to or in respect of any house vested in him under this Law between the date of vesting and the date on which such house is sold or transferred to the tenant thereof or to any other person, the Commissioner may recover the cost of providing or maintaining such amenities or services from the persons who were the tenants or occupants of such house during the period when such amenities or services were provided or maintained by the Commissioner.

Commissioner to recover cost of maintaining services. [§12, Law 34 of 1974.]

17F. (1) Where a house is vested in the Commissioner under this Law, the person who was the owner of such house immediately prior to such vesting (hereinafter referred to as the "former owner") shall not discontinue any amenities or services provided by him to such house

Discontinuance of amenities provided to vested houses. [§ 12, Law 34 of 1974.]

prior to such vesting except after giving fourteen days' notice in writing to the Commissioner,

(2) Where any such amenities or services are discontinued by the former owner without giving at least fourteen days' notice, the cost that may be incurred by the Commissioner in the restoration or replacement of such amenities or services shall be deducted from the price payable for such house to such owner under section 23.

(3) Where any such amenities or services are discontinued by any person other than the former owner or any local authority, Government department or public corporation, such person shall be guilty of an offence under this Law.

Taking possession of a house vested in the Commissioner. [§ 3, Law 9 of 1977-J

18. (1) Where for the purposes of development, redevelopment or otherwise, the Commissioner considers that it is necessary to take possession of any house vested in him, any person specially or generally authorized in that behalf by the Commissioner may take possession of such house.

(2) No person shall, under subsection (1), take possession of any occupied building or any part of an occupied building without giving the occupier of the building at least seven days' notice of the intention to do so.

(3) The Commissioner shall prepare or cause to be prepared a report as to the condition and state of repair of every house vested in the Commissioner.

Prevention of or obstruction to taking possession of house for and on behalf of the Commissioner.

19. (1) Every person who—

- (a) prevents, obstructs or resists; or
- (b) directly or indirectly causes anyone to prevent, obstruct or resist,

any person from or in taking possession under section 18 of any house for and on behalf of the Commissioner shall be guilty of an offence under this Law.

(2) Where a person authorized by the Commissioner under section 18 to take possession of any house for and on behalf of the Commissioner is unable or apprehends that he will be unable to take possession of such house because of any obstruction or

resistance that has been or is likely to be offered, on his making an application in that behalf to the Magistrate's Court having jurisdiction over the place where the house is situated, the Magistrate shall issue an order of the Court directing the Fiscal to deliver possession of that house to him for and on behalf of the Commissioner.

(3) Where an order under subsection (2) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute that order and shall in writing report to the court the manner in which that order was executed.

(4) Where an order under subsection (2) is issued to the Fiscal by a Magistrate's Court, the execution of such order shall not be stayed in any manner by reason of any steps taken or proposed to be commenced in any court with a view to questioning, varying or setting aside such order.

(5) For the purpose of executing an order issued by a Magistrate's Court under subsection (2), the Fiscal or any person acting under his direction may use such force as may be necessary to enter the house to which that order relates and to eject any person in occupation thereof and to deliver possession of the house to the person who is authorized under section 18 to take possession thereof for and on behalf of the Commissioner.

20. Where any house is vested in the Commissioner, the Commissioner shall, by notice published in the Gazette and in such other manner as may be determined by him, direct every person who was interested in such house immediately before the date on which such house was so vested to make, within a period of one month reckoned from the date specified in the notice, a written claim to the whole or any part of the price payable under this Law in respect of such house, and to specify in the claim—

Notice to persons entitled to make claims to the price payable in respect of any vested house.

- (a) his name and address,
- (b) the nature of his interest in such house,
- (c) the particulars of his claim, and
- (d) how much of such price is claimed by him.

Provisions to be complied with by the Commissioner on receipt of claims [§ 3, 56 of 1980.]

21. Upon the receipt of any claim made under section 20, the Commissioner shall forward such claim to the Secretary to the Ministry of the Minister for reference to a Board of Valuation for the determination of the price payable in respect of the house which is the subject-matter of the claim.

value of any additions and improvements made to such house by any owner after the date of such deed, reduced by the net income for that period,

Reference to Board of Valuation for award as to price payable. [§ 3, 56 of 1980.]

22. (1) The Secretary to the Ministry of the Minister shall refer to a Board of Valuation for determination of the price payable in respect of every house vested in the Commissioner and shall transmit to the Board all claims made to such price together with all documents furnished by the claimants in support of their claims.

whichever amount is lower, and where the provisions of paragraph (b) are not applicable, the amount as determined under the provisions of paragraph (a):

Provided, however, that—

(2) A reference made under subsection (1) to a Board of Valuation is hereafter in this Law referred to as a "reference for an award as to price".

(1) in determining the price payable for any house vested under section 13A or section 14, the fact that the owner of such house is not entitled to institute action or proceedings for the ejection of the tenant thereof on the ground that such house is reasonably required for occupation as a residence by the landlord of such house or any member of his family shall not be taken into consideration; and

Determination of price payable. [§ 3, 56 of 1980.]

23. The price payable for any house vested in the Commissioner under this Law shall be —

(ii) in the case of a land where there are tenements the price payable for any land in excess of the lands which are appurtenant to such tenements shall be on the basis that the only development possible is by the construction of similar tenements in such excess land.

(a) the market value of the house as at the date of vesting, such market value being determined in the case of a house let to a tenant on the basis that recovery of possession of such house is possible only in accordance with the provisions of the Rent Act as were in force on the date of vesting; or

24. Where any amount payable as the price of any house vested in the Commissioner to any person under this Law is not accepted by him when it is tendered to him or where such person is dead or is not in existence or is not known, it shall be paid to any District Court to be drawn by the person or persons entitled thereto.

Provision for cases where the amount is not accepted, &c.

(b) where the ownership of the house was acquired by purchase or otherwise prior to April 1, 1957, or otherwise than by purchase on or after April 1, 1957, the market value thereof as at April 1, 1957, increased by an amount calculated at a rate of six *per centum* of such value for each year up to the date of vesting, and where the ownership of the house was acquired by purchase on or after April 1, 1957, the lowest purchase price as specified in any deed of purchase in respect of such house executed after April 1, 1957, increased by an amount calculated at a rate of six *per centum* of such purchase price for each year from the date of such deed up to the date of vesting and an additional amount equal to the reasonable

25. Where a person is entitled to the amount payable as the price of any house vested in the Commissioner under this Law, the Commissioner shall, before any payment is made to such person under section 28, pay from such amount to the Commissioner-General of Inland Revenue any sum certified under the hand of the Commissioner-General of Inland Revenue to the Commissioner to be due from such person as tax on income or profits or as personal tax.

Deduction from the amount payable.

[§ 11, Law 18 of 1976.]

26. Any amount payable as the price of any house vested in the Commissioner under this Law, less any deductions that may interest on amount payable

be made from such amount under this Law, shall carry interest, as from the date on which it accrues due until payment, at such rate as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Where the amount payable as interest under the preceding provisions of this section exceeds the amount which is equivalent to the rent payable for such house for the period commencing on the date on which the house was vested and ending on the date on which the payment of the price of such house was made, less any sum payable by way of rates and any expenditure by way of repairs, then, the Commissioner shall, in lieu of paying such interest, pay the last-mentioned amount.

Date of commencement of amount payable.

27. The amount payable as the price of any house vested in the Commissioner under this Law shall be considered as accruing due from the date on which the house was vested.

Manner and mode of payment. [§ 4, 56 of 1980.]

28. (I) The amount payable to any person as the price of any house vested in the Commissioner under this Law shall—

- (a) in a case where only one house of that person has been so vested—
 - (i) be paid in cash, if such amount does not exceed fifteen thousand rupees; or
 - (ii) be paid in cash in respect of the first fifteen thousand rupees, and in bonds issued by the Central Bank of Ceylon in respect of the balance sum, if such amount exceeds fifteen thousand rupees; or
- (b) in a case where two or more houses of that person have been so vested—
 - (i) be paid in cash, if the total amount does not exceed fifteen thousand rupees; or
 - (ii) be paid in cash in respect of the first fifteen thousand rupees and in bonds issued

by the Central Bank of Ceylon in respect of the balance sum, if such amount exceeds fifteen thousand rupees.

(2) The following provisions shall apply to the bonds referred to in subsection (1):— [§ 12, Law 18 of 1976]

- (a) such bonds shall be of twenty-five years duration and shall carry five *per centum* per annum interest;
- (b) the principal sum represented by each such bond and the interest on such principal sum are hereby charged on, and shall be payable out of, the National Housing Fund established under the National Housing Act;
- (c) the holder of any such bond may transfer such bond by gift *inter-vivos* or by will, to his spouse or his children and subject as herein provided, such bond shall not be transferable or negotiable;
- (d) the holder of the bonds shall be entitled to surrender them before maturity with the approval of the Minister for any of the following purposes:—
 - (i) the construction of residential buildings;
 - (ii) the payment of the capital levy, estate duty, wealth tax or gifts tax;
 - (iii) where the holder is a private company within the meaning of the Companies Ordinance, for the payment of any of the taxes specified in sub-paragraph (ii) payable by any shareholder of such company;
 - (iv) relief of extreme personal hardship;
 - (v) such other prescribed purposes;
- (e) such bonds shall be issued in such manner and subject to such other terms and conditions as may be prescribed.

Provisions of the Prevention of Frauds Ordinance not to apply to instruments executed by or in favour of the Commissioner. [§ 13, Law 34 of 1974.]

Constitution of the Board of Review. [§ 14, Law 34 of 1974.] [§ 5, 56 of 1980.]

Meetings of the Board. [§ 15, Law 34 of 1974.)

28A. The provisions of the Prevention of Frauds Ordinance shall not apply to any instrument executed by or in favour of the Commissioner under this Law.

29. (1) There shall be established for the purposes of this Law a Board of Review (hereinafter referred to as "the Board") consisting of not more than fifteen members appointed by the Minister of whom at least five shall be persons with judicial or legal experience and at least five shall be persons with an adequate knowledge of the valuation of land (hereinafter referred to as "valuer members").

(2) A person shall be disqualified for being appointed or being a member of the Board if he is a Member of Parliament.

(3) A member of the Board with judicial or legal experience shall be appointed to be the Chairman, and another member with similar experience shall be appointed to be the Vice-Chairman, of the Board by the Minister.

(4) Every member of the Board shall, unless he earlier vacates office or is removed therefrom by the Minister, hold office for a period of three years. Any member of the Board who vacates office by effluxion of time shall be eligible for reappointment.

(5) There shall be appointed a Secretary to the Board (hereinafter referred to as the "Secretary") and such other officers and servants as may be necessary for the performance of the work of the Board.

(6) The members of the Board shall be remunerated at such rates as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

30. (1) The Secretary shall, under the direction of the Chairman, or in his absence the Vice-Chairman, of the Board, convene ordinary meetings of the Board for the consideration and determination of references made to the Board,

(2) The Chairman or the Vice-Chairman [§15, Law 34 of 1974-] or a member with judicial or legal experience and two other members of the Board one of whom shall be a valuer member shall be summoned to an ordinary meeting of the Board. The members to be summoned other than the Chairman and the Vice-Chairman shall be chosen by lot by the Secretary. The quorum for an ordinary meeting of the Board shall be two members.

(3) Separate meetings of the Board may [§15, Law 34 of 1974] be convened and held at the same time to consider and determine different references.

(4) Where the Chairman or the Vice-Chairman is summoned to an ordinary [§15, Law 34 of 1974] meeting of the Board, the Chairman or Vice-Chairman, as the case may be, shall preside at that meeting. Where the Chairman or Vice-Chairman is not summoned, the member with judicial or legal experience shall, if he is the only member with such experience summoned to that meeting, preside at that meeting. Where more than one member with such experience is summoned to that meeting the members of the Board summoned to and present at that meeting shall choose one of the members with such experience as the Chairman of that meeting.

(4A) The Secretary shall under the [§15, Law 34 of 1974] direction of the Chairman of the Board convene extraordinary meetings of the Board. The Chairman of the Board and four other members of the Board nominated by the Chairman of the Board shall be summoned to an extraordinary meeting of the Board. No extraordinary meeting of the Board shall be held unless the Chairman of the Board and the four other members summoned are present at the meeting. The Chairman of the Board shall preside at every extraordinary meeting of the Board.

(5) A member of the Board who is interested in any matter which is the subject of a reference or who has been consulted as an attorney-at-law or in any other capacity in regard to that matter by or on behalf of any person interested therein shall not participate in any proceedings of a meeting of the Board on such reference.

(6) A meeting of the Board may from time to time be postponed or adjourned.

considered at that meeting shall be deemed to be the determination of the Board on that matter.

Proceedings before Board.

31. (1) Every reference shall be considered and determined at a meeting of the Board.

(2) Where the members of the Board who consider any matter disagree with regard to the determination on that matter, the determination of the majority of them shall be the determination of the Board on that matter, and, where the members are equally divided in their opinion, the determination supported by the Chairman of the meeting by which that matter is considered shall be the determination of the Board on that matter.

(2) The Secretary shall fix a date, time and place for the consideration and determination by the Board of each reference.

(3) The Secretary shall, in respect of every reference, keep a record of all such proceedings before the Board as relate to that reference.

(3) Every determination of the Board shall contain the reasons therefor.

[& 6, 56 of 1980-1

(4) Where pending consideration by the Board of any reference, all the members of such Board resign or are removed from office and a new Board appointed, the new Board shall have power to act on evidence relating to such reference recorded at a meeting of its predecessor and partly recorded at a meeting held by it.

35. Subject to the provisions of this Law in respect of procedure, the Board may lay down the procedure to be observed at meetings of the Board.

Board may regulate its procedure at meetings.

Power to summon witnesses, &c.

32. (1) The Chairman or the Vice-Chairman of the Board and, if the Chairman or the Vice-Chairman is not presiding at any meeting of the Board, the Chairman of that meeting shall, for the purposes of the consideration and determination of any reference, have all the powers of a District Court—

36. Where a reference for an award as to price is made to a Board of Valuation, the Board of Valuation shall, before making such award, give the Commissioner, any tenant who has applied for the purchase of the house in respect of which such reference was made and every person who has made a claim to the whole or part of the amount payable as the price of the house an opportunity of being heard in person or by an agent authorized in that behalf.

Commissioner, tenants and claimants to be given opportunity of being heard. [§ 7, 56 of 1980.]

(a) to summon and compel the attendance of witnesses;

(b) to compel the production of documents; and

(fr) to administer any oath or affirmation to witnesses.

37. Where there is a copy of any report made by or under the authority of the Commissioner in regard to the condition of any house vested in the Commissioner, then that report shall, in any proceedings before a Board of Valuation relating to the determination of the price of such house, be prima facie evidence of the facts stated therein until the contrary is proved.

Provisions in regard to evidence. [§ 8, 56 of 1980.]

(2) Every person who attends a meeting of the Board as a witness shall be paid as travelling and other expenses such sum as shall be determined by the Chairman or in his absence the Vice-Chairman of the Board.

38. (1) Where a reference for an award as to the price is made to a Board in respect of any house vested in the Commissioner, the Board of Valuation shall, after considering all such matters and hearing all such witnesses as may be necessary for the purpose, make an award determining—

Award by a Board of Valuation on reference. [§ 9, 56 of 1980.]

Persons giving evidence bound to state the truth

33. Every person giving evidence on any matter before a meeting of the Board shall be bound to state the truth on such matter.

Determination of the Board.

34. (1) The determination made at a meeting of the Board on any matter

(a) whether or not each person who has made a claim is a person entitled to

it, and if so, the capacity in which he is so entitled ;

(b) the amount payable as the price in respect of such house in accordance with the provisions of this Law; and

(c) the apportionment of such amount among the persons entitled to it:

Provided that, where there is a dispute as to the persons entitled to such amount or as to the apportionment of such amount among the persons entitled to such amount, a Board of Valuation shall defer making an award and shall refer the dispute for decision to the District Court within whose local Jurisdiction such house is situate, and shall, after such Court makes its decision on such dispute, make an award in accordance with such decision.

[§ 9. 56 of 1980.]

(2) Where no person makes a claim to such amount in respect of any house vested in the Commissioner, it shall not be necessary to determine in the award under this section the matters specified in paragraphs (a) and (c) of subsection (1) and to comply with the provisions of subsection (3) relating to the giving of notice of the award to claimants to such amount.

[§ 9. 56 of 1980.]

(3) A Board of Valuation shall cause written notice of its award to be given to the Commissioner and the claimants to such amount.

[§ 9. 56 of 1980.]

(4) An award of a Board of Valuation shall be final and shall not be called in question in any court.

Appeals against decisions of Commissioner.

39. (1) Any person aggrieved by any decision or determination made by the Commissioner under this Law may, within one month of the date on which such determination is communicated to such person, appeal against such decision or determination to the Board, stating the grounds of such appeal.

(2) The provisions of sections 30 to 36 shall, *mutatis mutandis*, apply to the hearing and determination of any appeal made under subsection (1).

(3) The determination of the Board on any appeal made under subsection (1) shall be final and shall not be called in question in any court.

39A. (1) The Minister may from time to time appoint a panel consisting of fifteen or more members of whom not less than one-third shall be persons with an adequate knowledge of the valuation of land.

Constitution of Boards of Valuation. [§ 10, 56 of 1980.]

(2) For the purpose of constituting a Board of Valuation to determine a reference for an award as to price made under section 22, the Secretary to the Ministry of the Minister shall select from the panel three members to constitute a Board of Valuation.

(3) A person shall be disqualified for being appointed or being a member of the panel if he is a Member of Parliament.

(4) Every member of the panel shall—

(a) subject to the provisions of subsections (6) and (11), hold office for such period not exceeding three years as the Minister may determine at the time of appointment; and

(b) be eligible for reappointment.

(5) Any member of the panel may without any reason being assigned therefor, be removed from office by the Minister.

(6) Any member of the panel who is not a public officer may resign from the panel, by letter in that behalf addressed to the Minister.

(7) Where the office of a member of the panel becomes vacant or such member becomes, by reason of illness or other infirmity, or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint another person in place of such member.

(8) The members of the panel shall be remunerated in such manner and at such rates and shall be subject to such conditions of service as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(9) Subject to the provisions of this Act, each Board of Valuation may regulate its own procedure at its meetings and in the transaction of business thereat.

(10) The validity of any proceedings of a Board of Valuation shall not be affected by any vacancy among the members or by any defect in the appointment of any member.

(11) Where on the expiration of the term of office of any member of the panel, who has been appointed by the Secretary to the Ministry of the Minister to any Board of Valuation before which there is any reference pending on the day immediately preceding the date of expiration of the term of office of such member, the Minister may extend the term of office of such member, for such period or periods until such reference is determined by such Board.

Minister may make regulations for or in respect of all matters stated or required by this Law to be prescribed or in respect of which regulations are authorized or required to be made.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or upon such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder. Every regulation so approved shall be as valid and effectual as though it were herein enacted.

PART II

REGULATION OF CONSTRUCTION OF HOUSES

Restriction of floor area of houses. [§11, 56 of 1980.]

40. (1) No person shall construct a house which exceeds three thousand square feet in floor area inclusive of the thickness of the external walls:

Provided, however, that a person may, with the prior permission in writing of the relevant authority, construct communal living quarters such as hostels and barracks which exceed the aforesaid floor area.

[§16, Law 34 of 1974.]

(2) No person shall make any extension to a house, if the floor area of such extension together with the floor area of the house would exceed three thousand square feet inclusive of the thickness of the external walls;

Provided that the preceding provisions of this subsection shall not apply to any extension commenced before the 8th day of October, 1974.

PART III

GENERAL

Regulations.

***44.** (1) The Minister may make regulations for the purpose of carrying out the provisions and giving effect to the principles of this Law.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the

• Sections 41. 42 and 43 are repealed by Act No. 56 of 1980.

45. (1) Every person who contravenes or fails to comply with any provisions of this Law or of any regulations made thereunder shall be guilty of an offence under this Law.

Offences.

(2) Every person who is guilty of an offence under this Law other than an offence under section 8 (3A) or section 42 shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding six months or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

[§ 13, Law 18 of 1976.]

(3) Where a person committing an offence under this Law is a company or other body corporate, or an association of persons (whether incorporated or not) or a firm, every director, manager, secretary, agent or other officer or person concerned with the management thereof, and every partner of the firm shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

45A. Any act or thing required or authorized by or under this Law to be done by any person shall, if such person is a minor or a person of unsound mind, be deemed to be required or authorized to be

Who may act for minors and persons of unsound mind. [§ 14, Law 18 of 1976.]

done by the trustee, as the case may be, of such minor or of such person of unsound mind.

In this section, the expression " trustee " includes any trustee, guardian, curator, manager, agent or other person having the direction, control, or management of any property on behalf of any person but does not include an executor.

This Law to prevail over other written law.

46. The provisions of this Law shall have effect notwithstanding anything contained in any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this Law and such other law, the provisions of this Law shall prevail over such other law.

Beneficiary deemed owner of a house held in trust. [& 18, Law 34 of 1974.]

46A. Where a house is held in trust, the beneficiary shall, for the purposes of this Law, be deemed to be the owner of such house.

Interpretation.

47. In this Law, unless the context otherwise requires—

[§ 19, Law 34 of 1974.]

" body of persons " includes a corporation sole;

[§ 19, Law 34 of 1974.]

" Commissioner " means the Commissioner for National Housing and includes a Deputy Commissioner or an Assistant Commissioner;

" dependent child " in relation to an individual means a child under eighteen years of age other than—

- (a) a married child, and
- (b) a child not maintained by the parents, and having independent means of livelihood,

and includes—

- (i) a step-child of that individual or his spouse,
- (ii) a child of that individual born of a marriage by habit and repute or according to custom,
- (iii) a child authorized by any adoption order made under the

Adoption of Children Ordinance to be adopted by that individual,

- (iv) where that individual is not a citizen of Sri Lanka and he satisfies the Commissioner that he has a child whom he has adopted in accordance with the law of the country of which he is a subject or citizen, such child, and

- (v) where such child or step-child is not under the age of eighteen years, if that child either lived with him and was maintained by him, or was maintained by him in any sanatorium, asylum or educational establishment,

but does not include any adopted child other than an adopted child referred to in paragraph (iii) or paragraph (iv);

" flat " means a self-contained domestic suite of rooms in a building of more than one storey;

" house " means an independent living unit, whether assessed or not for the purpose of levying rates, constructed mainly or solely for residential purposes, and having a separate access, and through which unit access cannot be had to any other living accommodation, and includes a flat or tenement, but shall not include—

- (1) sub-divisions of, or extensions to, a house which was first occupied as a single unit of residence; and
- (2) a house used mainly or solely for a purpose other than a residential purpose for an uninterrupted period of ten years prior to March 1, 1972;

" local authority " includes a Municipal Council, Urban Council, Town Council or Village Council;

- " municipal area" means an area within the administrative limits of a Municipal Council;
- " person" includes a body of persons corporate or unincorporate;
- " prescribed " means prescribed by regulation made under this Law;
- " public company " means—
 - (a) a company registered as a public company under the Companies Ordinance; or
 - (b) a company to which Part XI of the Companies Ordinance* applies;
- " public corporation" means any corporation, board or other body which was or is established by or under any written law, other than the Companies Ordinance*, with capital wholly or partly provided by the Government by way of grant, loan or other form;
- " relevant authority" means, where a house is situated or is to be constructed—
 - (a) within the limits of a Municipal Council, Urban Council or Town Council, the Mayor of the Municipal Council or the Chairman of the Urban Council or Town Council, as the case may be ;
 - (b) within the administrative limits of any Village Council, the Assistant Commissioner of Local Government for the administrative region within which such limits are situated or if the Minister in charge of the subject of Local Government by Order published in the Gazette so directs, the Chairman of the Village Council;
 - (c) in any place outside any of the limits aforesaid, the Assistant Commissioner of Local Government for the administrative region within which such place is situated ;
- " tenement" means a building consisting of two or more separately let dwelling houses bearing separate assessment numbers, each house having any of the following in common, namely, latrines, bathing places, kitchens or verandahs;
- " the date of commencement of this Law " or " commencement of this Law " means the 13th day of January 1973 ; and
- " urban area " * means an area within the administrative limits of an Urban Council.

SCHEDULE

[Section 8.]

PARTICULARS

1. Full name and address of the owner:
2. Name and address of declarant if he is not the owner:
3. Situation of the houses. Give name of land, assessment number, name of street, ward and town/village
4. State whether owned in full:
If owned in shares give the owner's share in the house :

• Repealed and replaced by the Companies Ad, No. 17 of 1982.

5. Particulars of ownership—
 - (o) by purchase—

Give deed number, name of notary, date of attestation, the extent of land and the consideration mentioned in the deed :
 - (6) if other than by purchase, state how ownership is derived i.e., gift, inheritance and give details as in (a) •
6. Extent of appurtenant land (attach copy of survey plan or dimensioned diagrammatic sketch):
7. (o) State whether the hous« was constructed by the owner:
 - (b) State whether alterations or improvements were made after purchase and give details :
8. Give details of all encumbrances such as mortgage, lease, etc.:
9. Name and address of the tenant:
10. Give the date of commencement of the tenancy of the present tenant:
11. State the standard rent and authorized rent of the house :
12. State the rent charged :
13. State whether the ownership of the house is proposed to be retained under this Law:

CHAPTER 8

COMMISSIONS OF INQUIRY

Acts
Nos. 17 of 1948,
8 of 1950,
40 of 1953,
8 of 1955,
29 of 1955.

AN ACT TO ENABLE THE APPOINTMENT OF COMMISSIONS OF INQUIRY. TO PRESCRIBE THEIR POWERS AND PROCEDURE, TO FACILITATE THE PERFORMANCE OF THEIR FUNCTIONS. AND TO MAKE PROVISION FOR MATTERS CONNECTED WITH OR INCIDENTAL TO THE AFORESAID MATTERS.

[8th September. 1948.]

Short title.

1. This Act may be cited as the Commissions of Inquiry Act.

(2) When a new member has been appointed under the provisions of subsection (1), it shall not be necessary for any evidence which may have been taken before the commission prior to such appointment to be retaken.

Power to appoint Commission of

2. (1) Whenever it appears to the resident to be necessary that an inquiry should be held and information obtained as to-

- (a) the administration of any department of Government or of any public or local authority or institution ; or
- (b) the conduct of any member of the public service ; or
- (c) any matter in respect of which an inquiry will, in his opinion, be in the interests of the public safety or welfare,

4. The President may, from time to time, by endorsement under his hand on a warrant issued under this Act, enlarge the time for the rendering of the report of the commission appointed by such warrant, whether the time for the rendering of such report has expired or not.

Enlargement of time.

5. The President may at any time alter for the purposes of section 3 or section 4, or revoke, any warrant issued under this Act.

Aeration or revocation of warrant.

the President may, by warrant under the Public Seal of the Republic, appoint a Commission of Inquiry consisting of one or more members to inquire into and report upon such administration, conduct or matter.

6. No warrant issued under this Act shall lapse by reason of, or be otherwise affected by, the death, absence from Sri Lanka, resignation or removal of the President who issues the warrant, or by his otherwise ceasing to hold the office of President.

Change of President.

(2) Every warrant issued under this Act shall-

- (a) set out the name of the member or each of the members of the commission;
- (b) where a commission consists of more than one member, specify the member who is to be the chairman of the commission ;
- (c) contain the terms of reference of the commission ; and
- (d) include a direction whether the inquiry or any part thereof shall or shall not be held in public.

7. A commission appointed under this Act shall have the following powers :-

Powers of commission.

- (a) to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the commission may think it necessary or desirable to procure or examine;
- (b) to require the evidence (whether written or oral) of any witness to be given on oath or affirmation, such oath or affirmation to be that which could be required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorized in that behalf by the commission an oath or affirmation to every such witness ;

Appointment of additional members.

3. (1) The President may add to the number of members of any commission appointed under section 2, and where any member so appointed or added dies, or resigns, or desires to be discharged, or refuses or becomes unable to act, the President may appoint a new member in his place.

- (c) to summon any person residing in Sri Lanka to attend any meeting of the commission to give evidence or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession ;
- (d) notwithstanding any of the provisions of the Evidence Ordinance, to admit any evidence, whether written or oral, which might be inadmissible in civil or criminal proceedings ;
- (e) subject to any direction contained in the warrant-
 - (i) to admit or exclude the public from the inquiry or any part thereof;
 - (ii) to admit or exclude the press from the inquiry or any part thereof;
- (f) to recommend that any person whose conduct is the subject of inquiry under this Act or who is in any way implicated or concerned in the matter under inquiry be awarded such sum of money as, in the opinion of the commission, may have been reasonably incurred by such person as costs and expenses in connexion with the inquiry. In this paragraph, "costs and expenses" includes the costs of representation by attorney-at-law, and travelling and other expenses incidental to the inquiry or consequential upon the attendance of such person at the inquiry.

- (b) to require by written notice the Commissioner-General of Inland Revenue to furnish, as specified in the notice, all information available to such Commissioner-General relating to the affairs of any person whose conduct is being inquired into by the commission or of the spouse or a son or daughter of such person, and to produce or furnish, as so specified, any document or a certified copy of any document relating to such person, spouse, son or daughter which is in the possession or under the control of such Commissioner-General.

(2) A commission appointed under this Act may exercise any power conferred on the commission under subsection (1) of this section, and any person to whom the commission issues any direction in the exercise of such power shall carry out such direction notwithstanding anything to the contrary in any other law.

9. The members of a commission appointed under this Act shall, so long as they are acting as such members, be deemed to be public servants within the meaning of the Penal Code, and every inquiry under this Act shall be deemed to be a judicial proceeding within the meaning of that Code.

Members of commission to be public servants and inquiries to be "judicial" proceedings "under the Penal Code.

10. Every offence of contempt committed against or in disrespect of the authority of a commission appointed under this Act shall be punishable by the Court of Appeal under Article 105 (3) of the Constitution.

Punishment of contempts.

11. (1) Every summons shall, in any case where a commission consists of one member only, be under the hand of that member, and in any case where a commission consists of more than one member, be under the hand of the chairman of the commission :

Summons.

Provided that where a person has been appointed under section 19 to act as secretary, any such summons may, with the authority of the commission, be issued under the hand of the secretary.

(2) Any summons may be served by delivering it to the person named therein, or if that is not practicable, by leaving it at the last known place of abode of that person.

Conferment of additional powers on a commission.

8. (1) All or any of the following powers may be conferred by the President on a commission appointed under this Act if the commission so requests:-

- (a) to require by written notice the manager of any bank in Sri Lanka to produce, as specified in the notice, any book or document of the bank containing entries relating to the account of any person whose conduct is being inquired into by the commission or of the spouse or a son or daughter of such person, or to furnish, as so specified, certified copies of such entries;

(3) Every person on whom a summons is served shall attend before the commission at the time and place mentioned therein, and shall give evidence or produce such documents or other things as are required of him and are in his possession or power, according to the tenor of the summons.

(b) be conclusive evidence that the determination set out in the certificate was made by the commission and of the facts stated in the determination.

Failure to obey summons, to give evidence, &c.

12. (1) If any person upon whom a summons is served under this Act-

- (a) fails without cause, which in the opinion of the commission is reasonable, to appear before the commission at the time and place mentioned in the summons ; or
- (b) refuses to be sworn or, having been duly sworn, refuses or fails without cause, which in the opinion of the commission is reasonable, to answer any question put to him touching the matters directed to be inquired into by the commission ; or
- (c) refuses or fails without cause, which in the opinion of the commission is reasonable, to produce and show to the commission any document or other thing which is in his possession or power and which is in the opinion of the commission necessary for arriving at the truth of the matters to be inquired into,

(4) In any proceedings taken as provided in section 10 for the punishment of any alleged offence of contempt against or in disrespect of the authority of any commission, no member of the commission shall, except with his own consent, be summoned or examined as a witness.

13. Every person who gives evidence before a commission appointed under this Act shall, in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled in respect of evidence given by him before such court.

Privileges of witness.

14. Where the President in the warrant of appointment of a commission or by subsequent Order declares that this section shall apply in relation to such commission, the following provisions shall have effect, that is to say :-

Special immunity for witness.

such person shall be guilty of the offence of contempt against or in disrespect of the authority of the commission.

(a) Subject as hereinafter provided, no person shall, in respect of any evidence, written or oral, given by that person to or before the commission at the inquiry, be liable to any action, prosecution or other proceedings in any civil or criminal court.

(2) Where a commission determines that a person has committed any offence of contempt (referred to in subsection (1)) against or in disrespect of its authority, the commission may cause its secretary to transmit to the Court of Appeal a certificate setting out such determination ; every such certificate shall be signed by the chairman of the commission, or where the commission consists of only one person by that person.

(b) Subject as hereinafter provided, no evidence of any statement made or given by any person to or before the commission for the purposes of the commission shall be admissible against that person in any action, prosecution, or other proceedings in any civil or criminal court:

(3) In any proceedings for the punishment of an offence of contempt which the Court of Appeal may think fit to take cognizance of as provided in section 10, any document purporting to be a certificate signed and transmitted to the court under subsection (2) shall -

Provided, however, that nothing in the preceding paragraphs shall-

- (a) be received in evidence, and be deemed to be such a certificate without further proof unless the contrary is proved ; and

(i) abridge or affect or be deemed or construed to abridge or affect the liability of any person to any prosecution or penalty for any offence under Chapter XI of the Penal Code, read with section 9 of this Act; or

(ii) prohibit or be deemed or construed to prohibit the publication or disclosure of the name or of the evidence or any part of the evidence of any witness who gives evidence at the-inquiry, for the purpose of the prosecution of that witness for any offence under Chapter XI of the Penal Code.

expenses incidental to the inquiry or consequential upon the attendance of such person at the inquiry, and, in the case of a bank, the clerical, travelling and other expenses consequential upon the compliance with the aforesaid notice.

(2) All moneys awarded by Order of the Minister under subsection (1) shall be a charge upon the Consolidated Fund ; and the payment of all such moneys is hereby authorized.

Presumption on production of record of evidence given by witnesses.

15. The presumptions which, under section 80 of the Evidence Ordinance, are applicable to the documents therein mentioned shall apply to every document produced before any court and purporting to be a record or memorandum of the evidence or any part of the evidence given by a witness examined before a commission appointed under this Act and purporting to be signed by the members thereof.

18. No civil or criminal proceedings shall be instituted against any member of a commission in respect of any act bona fide done or omitted to be done by him as such member.

Protection of members of commission.

Representation of persons by attorneys-at-law.

16. Every person whose conduct is the subject of inquiry under this Act, or who is in any way implicated or concerned in the matter under inquiry, shall be entitled to be represented by one or more attorneys-at-law at the whole of the inquiry; and any other person who may consider it desirable that he should be so represented may, by leave of the commission, be represented in the manner aforesaid,

19. (1) The President may appoint any person to act as secretary to a commission and such person shall perform such duties connected with the inquiry as the commission may order subject to the directions, if any, of the President.

Appointment of secretary and interpreters.

(2) A commission may appoint any person to act as interpreter in any matter arising at the inquiry and to translate any book, document, or other writing produced at the inquiry.

Costs and other expenses,

17. (1) On the conclusion of any inquiry under this Act, and on the recommendation of the commission, the Minister may, by Order under his hand, award to any person whose conduct has been the subject of such inquiry or who has been in any way implicated or concerned in the matter under inquiry or to any bank whose manager has complied with a notice issued in connexion with such inquiry by the commission in the exercise of powers conferred on the commission by the President under section 8 (1) (a) such sum of money as the Minister may, in his discretion, specify in the Order as sufficient to meet the costs and expenses which may have been reasonably incurred by such person or bank in connexion with the inquiry.

20. No stamp duty shall attach to or be payable for any process issued by or by the authority of a commission appointed under this Act.

Process issued under Act to be exempt from stamp duty.

21. Every process issued by a commission appointed under this Act shall be served and executed by the Fiscal.*

Service of process.

22. The members of any committee appointed to investigate charges framed against an officer in the public service may, by Order under the hand of the President, be appointed to be a Commission of Inquiry under this Act for the purposes of such investigation ; and upon such appointment the provisions of this Act shall apply as though a warrant under section 2 had been issued to such members for the purposes for which they were appointed members of the committee.

Vesting of members of committees appointed to inquire into the conduct of public officers with powers of commission.

In this subsection " costs and expenses " includes the cost of representation by attorney-at-law, and travelling and other

*A separate Fiscal is now appointed to each Court under section 52 (1) of the Judicature Act.

CHAPTER 332

CONTROL OF INSURANCE

Acts
Nos-25 of 1962,
9 of 1967,
22 of 1979.

AN ACT TO MAKE PROVISION FOR THE REGULATION AND SUPERVISION OF THE BUSINESS OF INSURANCE.

[1st November, 1962.]

Short title. **1.** This Act may be cited as the Control of Insurance Act.

PART I

APPLICATION OF ACT

Exemption of the Insurance Corporation of Ceylon and a subsidiary corporation of the Insurance Corporation of Ceylon and an independent corporation. [§ 44, 22 of 1979.]

2. Nothing in this Act shall apply to or be deemed or construed to prohibit or restrict the carrying on of insurance business by the Insurance Corporation of Ceylon, or by a subsidiary corporation of the Insurance Corporation of Ceylon or by an independent corporation.

Exemption for certain other associations.

3. (1) Subject to the provisions of subsection (2), nothing in this Act shall apply to or be deemed or construed to prohibit or restrict the carrying on of insurance business by—

- (i) any association which is constituted by any Act or Ordinance (enacted in Sri Lanka whether after or before the appointed date) and which is authorized by such Act or Ordinance to carry on business tailing within the meaning of insurance business as defined in this Act,
- (ii) any association in the case of which all the following requirements are satisfied, that is to say—

- (a) that contracts of insurance (whether express or arising by operation of the rules or by-laws of the association) are

effected or entered into by the association only with persons who are members of the association, and that the benefit under such contract accrues or may accrue only to members or their heirs or dependants or to persons nominated by such members in that behalf in accordance with the rules or by-laws ;

- (b) that no part of the net profits or income of the association is paid or payable to persons other than members or their heirs, dependants, or nominees as aforesaid; and
- (c) that membership of the association is restricted to persons in the employment of any one employer, or of two or more employers each of whom is engaged in a business or undertaking of the same description as the other or the others, and
- (iii) any association of persons which may be declared by the Minister by notification published in the Gazette to be exempt from the provisions of this Act.

(2) The Minister may, by notification published in the Gazette, declare that any provision or provisions of this Act shall apply to any association referred to in the preceding provisions of this section.

(3) The provisions of this Act other than the regulations in the Seventh Schedule shall not apply to any member of Lloyds Underwriters carrying on Sri Lanka business.

6. (1) Every application for the registration of an insurer under this Act shall be made to the Controller in such form as may be provided for the purpose by the Controller and be accompanied by—

Application for registration of insurers.

PART II

REGISTRATION OF INSURERS

Insurance business to be carried on only by persons registered under this Act.

4. Save as otherwise expressly provided in this Act—

- (a) no person who on or before the appointed date is carrying on insurance business of any class in Sri Lanka shall continue to carry on insurance business of such class, and
- (b) no person shall commence to carry on insurance business of any class other than life assurance business,

unless such person is for the time being registered under this Act as a person authorized to carry on insurance business of that class.

Requirement that a company applying for registration must be an incorporated company which has paid-up share capital and which is not a private company.

5. No company shall be registered under this Act as being authorized to carry on insurance business in Sri Lanka unless such company—

- (a) is a company which is incorporated in Sri Lanka under the Companies Ordinance*, and which is not a private company as defined in section 27 of that Ordinance, or
- (b) is a body which is incorporated by or under any law in any other country and which is not of the nature of such private company as aforesaid, and which has a paid-up capital of not less than one hundred thousand rupees, or the equivalent of such sum (ascertained at the time of registration) in any other currency, or
- (c) is a company which is limited by guarantee.

(a) a statement in writing by the insurer that the provisions of section 12 have been complied with, together with a certificate under the hand of the Deputy Secretary to the Treasury specifying the amount deposited under that section by the insurer, and

(b) if such application is by a company—

- (i) a certified copy of the memorandum and articles of association of the company, or of the charter, statute, deed of settlement, or other instrument constituting or defining the constitution of the company, and if the instrument is not written in the Sinhala language, a certified translation thereof;
- (ii) a statement setting out the name, address and occupation, if any, of each of the directors of the company, if it is a Sri Lanka company; or if it is a foreign company, a list of directors, the address of the registered office or principal place of business in Sri Lanka of the company or of its principal agent in Sri Lanka and the full name and address of the manager of the business of the company in Sri Lanka;
- (iii) a statement setting out the class or classes of insurance business carried on or proposed to be carried on in Sri Lanka by the company; and
- (iv) a statement setting out the amount of the paid-up capital of the company.

* Repealed and replaced by the Companies Act, No. 17 of 1982.

(2) Every application by a foreign insurance company for registration under this Act shall in addition be accompanied by a statement verified by an affidavit setting out the special requirements, if any, of the nature specified in section 9 imposed by the country in which such foreign company is incorporated, on insurance companies incorporated in Sri Lanka and carrying on business in that country.

(3) Every application under this section shall be verified by a declaration signed by the person making the application that the statements accompanying the application are true and accurate. Every such declaration shall be free of stamp duty.

(4) Every application under this section shall be accompanied by a fee of two hundred and fifty rupees in respect of each class of insurance business carried on or proposed to be carried on by the insurer:

Provided that in the case of life assurance business the fee shall be fifty rupees.

Registration and issue of certificates.

7. (1) Where the Controller is satisfied that an insurer making an application for registration under this Act has complied with the provisions of sections 5 and 6, the Controller shall register the insurer as a person authorized to carry on insurance business in Sri Lanka and shall determine the class or classes of insurance business which the insurer is authorized to carry on :

Provided that the Controller shall refuse to register any foreign insurance company if he is satisfied—

- (a) that Sri Lanka companies are by the law relating or applied to insurance in the country, in which that company is incorporated, debarred from carrying on insurance business in that country; or
- (b) that any requirement imposed on that company under the provisions of section 9 of this Act has not been complied with by that company:

And provided further that if the Minister is of the opinion that a company should not be allowed to carry on insurance business in

Sri Lanka in the national interest, the Controller shall refuse to register that company if the Minister so directs.

(2) Upon the registration of an insurer as hereinbefore provided, the Controller shall issue to the insurer a certificate of registration which shall be kept at all times at the principal office or place of business in Sri Lanka of the insurer and be made available for inspection by the Controller or any other person authorized by him for the purpose.

8. Whenever, after registration of a company, any alteration occurs or is made so as to affect any of the documents or particulars which under the provisions of subsection (1) or of subsection (2) of section 6 accompanied or were required to accompany the application of any company for registration, the company shall forthwith furnish to the Controller a full authenticated statement of such alteration.

Alteration in particulars furnished with application for registration to be reported to the Controller.

9. Where by the law or practice of any country other than Sri Lanka in which any foreign insurance company is incorporated, insurance companies incorporated in Sri Lanka are required as a condition of carrying on insurance business in that country to comply with any special requirement, whether as to the keeping of deposits or assets in that country or otherwise, which is not imposed under this Act upon companies of that country the Minister may, if satisfied of the existence of such special requirement, by notification published in the Gazette, direct that the same requirement or requirements as similar thereto as may be, shall be imposed upon foreign insurance companies incorporated in that country either—

Power of Minister to impose reciprocal disabilities on foreign companies.

- (a) as a condition of carrying on business of insurance in Sri Lanka, or
- (b) as a condition of entering into any new contract of long-term business in Sri Lanka.

Cancellation or alteration of registration.

10. (1) The Controller—
- (a) shall cancel the registration of an insurer, either wholly or in respect of any particular class of insurance business, as the case may be—
 - (i) if the insurer is in liquidation or is adjudged an insolvent;
 - (ii) if the insurer makes default in complying with the provisions of section 12 or section 44 or if the whole of the deposit made under this Act has been returned to the company as hereinafter provided;
 - (iii) if the insurance business of the insurer has been transferred to any other person, or amalgamated with the business of, or wholly reinsured with, any other person; and
 - (b) may cancel the registration of an insurer—
 - (i) if the insurer makes default in complying with, or acts in contravention of, any requirement of this Act or of any regulation or order made thereunder; or
 - (ii) if the insurer fails to comply with any requirement of section 38; or
 - (iii) if the Controller has reason to believe that any amount due by the insurer under a decree entered in an action in Sri Lanka arising out of any policy of insurance issued by the insurer has remained unpaid for three months after the date of the final adjudication in such action; or
 - (iv) if the insurer carries on any business other than insurance business; or
 - (v) in any other case in which he is authorized by this Act to cancel the registration.
- (2) Where in any case referred to in sub-paragraph (ii) or sub-paragraph (iii) of paragraph (a) of subsection (1), the default or the transfer or amalgamation or reinsurance of the business or the return of the deposit relates only to one or more, but not all, of the classes of insurance business carried on by the insurer, the Controller may, upon the cancellation of the registration of the insurer under that paragraph, register the insurer afresh in respect of any other class of insurance business and issue a fresh certificate in respect of that class of insurance business in accordance with the provisions of section 7.
- (3) In any case where a registered insurer ceases to carry on insurance business of any class or proposes to carry on insurance business of any other class not previously carried on by the insurer, the Controller may alter the registration of the insurer in such manner as may be necessary, and may alter the certificate of registration issued to that insurer or cancel such certificate and issue a fresh certificate of registration under section 7, as the circumstances of the case may require:
- Provided, however, that the insurer shall not by any such alteration be authorized to carry on any new class of insurance business unless—
- (a) the statements and other information mentioned in section 6 relating to the new class of insurance business are furnished to the Controller and a fee of two hundred and fifty rupees for registration in respect of that class of insurance business has been paid to the Controller; and
 - (b) unless the appropriate amount of the deposit required by section 12 has been made by the insurer and a certificate to that effect has been issued by the Deputy Secretary to the Treasury.

(4) In any case where the Controller is satisfied,—

- (a) that any insurer has contravened the provisions of section 19 or any order made thereunder; and
- (b) that for the reason aforesaid it is expedient in the interests of the policy holders that the insurer should be prevented from carrying on insurance business in Sri Lanka,

the Controller may make order cancelling the registration of the insurer.

(5) Notice of any order made under subsection (4) shall be served on the insurer, and the order shall take effect upon the expiration of a period of two months after the date of the service of the notice unless an appeal as hereinafter provided is preferred against the order.

(6) The insurer in respect of whom or which an order is made under subsection (4) may, before the expiry of a period of two months after the date of the service of notice of the order on the insurer, appeal to the District Court against the order; and such Court may, if it is satisfied that the insurer has not contravened the provisions of section 19, revoke the order of the Controller.

(7) The order of the District Court on any appeal under this section shall be subject to an appeal to the Court of Appeal and such appeal shall be preferred in like manner as though it were an appeal against a final order of the District Court made in a civil action.

Unregistered insurers.

11. (I) The following provisions shall apply in the case of any insurer who or which had prior to the appointed date carried on in Sri Lanka insurance business of any class:—

- (a) The insurer may continue to carry on general business of that class for a period of not more than three months after the appointed date notwithstanding that the insurer is not registered as required by section 4 or that the provisions of section 5

are not satisfied in the case of that insurer, or that the insurer has not made the deposit required by section 12.

- (b) If the insurer is not, within a period of three months after the appointed date, duly registered under this Act as being authorized to carry on insurance business of that class the insurer shall not, save as hereinafter provided, continue to carry on such insurance business in Sri Lanka after the expiry of that period,

- (c) Notwithstanding that an insurer is not duly registered within the period of three months after the appointed date, every policy or contract of insurance effected or renewed by the insurer at any time before the appointed date or within three months thereafter shall be deemed to be valid and effectual for all purposes, and nothing in this Act shall be deemed to prohibit or otherwise render unlawful the continuance of insurance business in Sri Lanka by that insurer in so far, but in so far only, as the transaction of such business is necessary for the purpose of the maintenance of any policy or contract of insurance without renewal.

(2) Such provisions of this Act as are not inapplicable shall apply to any insurer who or which had prior to the appointed date carried on in Sri Lanka insurance business of any class so long as any liability of the insurer upon any policy or contract of insurance of any class remains unpaid or undischarged.

(3) Where the registration of any insurer is cancelled as provided in this Act, then, notwithstanding such cancellation—

- (a) every contract of insurance effected by the insurer at any time before the cancellation takes effect shall be deemed to be valid and effectual for all purposes, and nothing in this Act shall be deemed to prohibit or otherwise render unlawful the

continuance of insurance business in Sri Lanka by that insurer in so far, but in so far only, as the continuance of such business is necessary for the purpose of the collection and receipt of the premia payable upon such policy or contract and the payment of sums payable by the insurer thereunder ;

- (b) such of the provisions of this Act as are not inapplicable shall continue to apply to that insurer so long as any liability of the insurer upon any policy or contract of insurance of any class remains unpaid or undischarged.

at the time of substitution, and the Deputy Secretary to the Treasury shall, on the written application of any insurer who or which has made a deposit, invest in Government securities or Government guaranteed securities the whole or any part of the cash received by the Deputy Secretary to the Treasury on the redemption of any securities deposited by the insurer under this Act.

(5) The Deputy Secretary to the Treasury shall, if so requested by the insurer, sell any securities deposited with him and either hold the cash realized by such sale as deposit or invest in such Government securities or Government guaranteed securities as may be specified by the insurer the whole or any part of the cash received by him and hold the securities in which investment is so made as deposit.

(6) The amount of any deposit made under the provisions of Part II of the Motor Traffic (Third Party Risks) Regulations, 1951, by an insurer seeking registration under this Act shall be deemed to have been returned to such insurer under regulation 5 (3) of Part II of the aforesaid regulations and thereafter to have been paid by such insurer as a deposit in terms of subsection (1) of this section:

Provided, however, that so much of that amount as may not be required to be kept deposited in terms of subsection (1) of this section shall be returned to the insurer by the Deputy Secretary to the Treasury.

13. The deposit made by the insurer Reservation of
under section 12 shall be deemed to be part deposits
of the assets of the insurer, but shall not—

- (a) be capable of being transferred or assigned or of being encumbered with any mortgage or other charge by the insurer or be liable to seizure in execution of any decree; or
- (b) be available for the discharge of any liability of the insurer except for the discharge, in the event of the winding up of the insurer, of liabilities arising out of policies of insurance business issued by the insurer and remaining undischarged.

Making of deposits,

12. (1) Every insurer applying for registration under this Act shall, keep deposited with the Deputy Secretary to the Treasury, for and on behalf of the Government of Sri Lanka, a sum of fifty thousand rupees in respect of each class of insurance business proposed to be carried on by that insurer in Sri Lanka:

Provided that the maximum amount of the deposit shall, subject to the provisions of section 44, be two hundred thousand rupees.

(2) A deposit made under this Act may consist of cash or of Government securities or of Government guaranteed securities, and the value of any securities so deposited shall be taken to be their market value at the date of deposit.

(3) A deposit made in cash shall be held by the Deputy Secretary to the Treasury to the credit of the insurer and shall be returnable to the insurer in cash in the circumstances and in the manner in which under the provisions of this Act a deposit is to be returned, and any interest accruing due on securities deposited under this section by any insurer shall, when it is collected, be paid by the Deputy Secretary to the Treasury to the insurer.

(4) An insurer may at any time substitute for the securities deposited with the Deputy Secretary to the Treasury under this section other Government securities or Government guaranteed securities of equal value assessed at the market rate prevailing

Return of deposits.

14. Where the Controller is satisfied that an insurer has ceased to carry on in Sri Lanka any class of insurance business in respect of which a deposit has been made under section 12 and that its liabilities in Sri Lanka in respect of business of that class have been satisfied or are otherwise provided for, the Controller shall, on the application of the insurer, order the return to the insurer of so much of the deposit as may not be required under section 12 for the purposes of any other class of insurance business which the insurer may carry on thereafter;

Provided, however, that no such order shall be made in relation to any class of insurance business until after the expiration of two years from the date of the last policy of insurance of that class issued by the insurer.

PART III

GENERAL PROVISIONS APPLICABLE TO INSURERS

Separation of accounts and assets.

15. Where an insurer carries on business of more than one of the classes of insurance business as defined in this Act, such insurer shall keep a separate account of all receipts and payments in respect of each such class of insurance business.

Register of policies and register of claims.

16. Every Sri Lanka insurer shall in respect of all insurance business transacted by such insurer, and every foreign insurer shall in respect of all insurance business transacted by such insurer in Sri Lanka, keep and maintain—

- (a) a register or record of policies, in which shall be entered in respect of every policy issued by the insurer, the name and address of the policy holder, the date when the policy was effected, and particulars of any transfer, assignment or nomination of which the insurer has notice; and
- (b) a register or record of claims in which shall be entered every claim presented to the insurer together with the date of the claim and the name and address of the claimant, the date of settlement of the claim,

and where a claim is repudiated the date of repudiation and the grounds therefor.

Prohibition of loans-

17. (1) No insurer shall grant to any person who holds the position of manager, managing agent, actuary, auditor, or officer of such insurer, and, if such insurer is a company, to any person who holds the position of director of such company, or to any company in which such a person holds any such position, any loan, other than a mortgage of a policy of life assurance issued by that insurer, except with the prior approval of the Controller who shall grant such approval only if he is satisfied that sufficient security is being given for the repayment of the loan.

(2) In respect of any loan granted by an insurer to any person referred to in subsection (1) and outstanding on the appointed date, the Controller shall have the power, notwithstanding anything to the contrary in any agreement or contract, to examine the adequacy of the security given by such person for the repayment of the loan and, if the Controller considers it necessary so to do, to require that the loan be repaid or that additional security be given, on or before a specified date. If such person fails to repay the loan, or to give additional security, on or before the specified date, he shall cease to hold office on the expiry of a period of one year from that date.

18. None of the assets in Sri Lanka of any insurer shall be kept otherwise than in the name of the insurer.

Assets of insurer to be kept in the business name of the insurer.

19. (1) No insurer shall reinsure with any person in Sri Lanka other than an insurer or with any such institution as may be declared by the Minister by notification published in the Gazette any risk under any policy or contract of insurance issued or effected in respect of insurance business transacted in Sri Lanka.

Reinsurance.

(2) Every insurer shall, not later than three months after the appointed date, furnish to the Controller a list of the insurers (together with their addresses), with whom that insurer has reinsured risks upon policies or contracts of insurance issued or

effected in respect of insurance business transacted in Sri Lanka and shall whensoever reinsurance is effected with an insurer whose name is not in such list furnish the name and address of such last-mentioned insurers to the Controller.

(3) The Controller may from time to time, by order published in the Gazette or by special order addressed to any insurer, prohibit all insurers or any specified insurer, as the case may be, from reinsuring with any specified insurer outside Sri Lanka risks upon policies or contracts of insurance issued or effected in respect of insurance business transacted in Sri Lanka:

Provided, however, that before making any order under this subsection the Controller shall inform the insurer or insurers of his intention to make such order and shall consider any representations made by the insurer or insurers with reference to his intention.

Application of law to policies issued in Sri Lanka-

20. The holder of a policy of insurance issued by any insurer in respect of insurance business transacted in Sri Lanka after the appointed date shall have the right, notwithstanding anything to the contrary contained in the policy or in any agreement relating thereto, to receive payment in Sri Lanka of any sum secured thereby and to sue for any relief in respect of the policy in any competent court in Sri Lanka; and if the suit is brought in Sri Lanka any question of law arising in connexion with any such policy shall be determined according to the law in force in Sri Lanka:

Provided that this section shall not apply to holders of policies of marine insurance.

In this section "competent court" means the District Court of Colombo or of the district in which the plaintiff resides.

Power of Controller to fix rates of premia.

21. The Controller may from time to time fix and notify the maximum or minimum rates of premia, or both such rates, to be charged by insurers in respect of policies of insurance to be issued by them.

PART IV

LIFE ASSURANCE BUSINESS

22. (1) Every insurer who or which has transacted life assurance business in Sri Lanka prior to the first day of January, 1962, and who or which has issued any policies of life assurance under which liabilities have not been discharged by such insurer on the appointed date shall maintain in Sri Lanka assets of such value as will be sufficient to discharge the liabilities under such policies determined in the prescribed manner.

Duty of insurers who have issued any policies of life assurance under which liabilities have not been discharged on the appointed date to maintain assets in Sri Lanka.

(2) At least half of the assets which an insurer is required to have in Sri Lanka for the purposes of subsection (1) shall consist of investments in Government securities and the remainder of such assets shall be of such kind as are notified to, and approved in writing by, the Controller.

(3) An insurer shall comply with the provisions of subsection (1) before the expiry of a period of five years after the appointed date:

Provided that the insurer shall at the end of the first year after the appointed date have in Sri Lanka not less than one-fifth of the assets required for the purposes of subsection (1) and shall thereafter before the end of each subsequent year increase such assets by at least one-fifth so that there shall be all the assets required for the purposes of subsection (1) at the end of five years after the appointed date.

(4) Every insurer to whom subsection (1) applies shall not later than January thirty-first in each year furnish to the Controller a return, in the prescribed form and certified in the prescribed manner, of the assets and liabilities of such insurer in Sri Lanka on the last day of December in the previous year; and such insurer shall furnish a similar return to the Controller in respect of each period of three months ending on March thirty-first, June thirtieth and September thirtieth in each year, the return in respect of each such period being furnished not later than one month after the date of termination of such period :

Provided that the Controller may, upon an application being made by an insurer, grant an extension of time not exceeding one month to furnish such return.

(5) The Controller may cause such investigation as he may consider necessary for the purpose of verifying the particulars contained in any return furnished by an insurer under subsection (4), and such insurer shall upon being requested to do so by notice in writing by the Controller, furnish on or before the date specified in the notice such information or explanation as the Controller may require for such investigation.

return or permit such officer to enter such place and make such examination.

24. (I) A transfer of an assignment of a policy of a life assurance, whether with or without consideration, may be made only by an endorsement upon the policy itself or by a separate instrument signed in either case by the transferor or by the assignor or his duly authorized agent and attested by at least one witness, and specifically setting forth the fact of transfer or assignment.

Assignment and transfer of life assurance policies.

Duty of insurer carrying on business of life assurance to maintain a separate fund and keep assets relating to such business separate from assets relating to any other business.

23. (1) Every insurer who or which carries on the business of life assurance in Sri Lanka, whether solely or in addition to any other business, shall—

- (a) maintain a separate fund to be called the life assurance fund and shall credit all money received in respect of the life assurance business carried on by such insurer to that fund ; and
- (b) keep the assets in respect of the life assurance business separate from the assets in respect of any other class of insurance business.

(2) The life assurance fund maintained by an insurer under subsection (1) shall not be liable for any contracts of the insurer for which it would not have been liable had the business of the insurer been only that of life assurance, and shall not be applied directly or indirectly for any purposes other than those of the life assurance business carried on by that insurer.

(3) For the purpose of verifying whether an insurer complies with the provisions of subsection (1), the Controller may—

- (a) call upon such insurer to furnish from time to time a return in such form as may be prescribed ;
- (b) authorize an officer in writing to enter at all reasonable hours the place at which such insurer is carrying on the business of life assurance and examine any books, registers or documents of such insurer relating to such business and such insurer shall furnish such

(2) No transfer or assignment of a policy of life assurance shall be of any effect as against the insurer unless it is made in accordance with subsection (1), or until a notice in writing of the transfer or assignment, together with the instrument or endorsement of a copy thereof which is certified by or on behalf of the parties to the transfer or assignment to be correct, is served on the insurer at his or its principal place of business in Sri Lanka,

(3) The date on which the notice referred to in subsection (2) is served on the insurer shall regulate the priority of all claims under a transfer or an assignment of a policy of life assurance as between persons interested in the policy; and where there is more than one instrument of transfer or assignment, the priority of the claims under such instruments shall be governed by the order in which the notices referred to in subsection (2) are served.

(4). Upon the receipt of the notice referred to in subsection (2), the insurer shall record the fact of such transfer or assignment together with the date thereof and the name of the transferee or the assignee and shall, on the request of the person by whom the notice was given, or of the transferee or assignee, on payment of a fee not exceeding one rupee, grant a written acknowledgment of the receipt of such notice, and any such acknowledgment shall be conclusive evidence against the insurer that he has duly received the notice to which such acknowledgment relates.

(5) Subject to the terms and conditions of the transfer or assignment, the insurer shall, from the date of the receipt of the

notice referred to in subsection (2), recognize the transferee or assignee named in the notice as the only person entitled to benefit under the policy, and such person shall be subject to all liabilities and equities to which the transferor or assignor was subject at the date of the transfer or assignment and may institute any proceedings in relation to the policy without obtaining the consent of the transferor or assignor or making him a party to such proceedings.

(6) Any rights and remedies of an assignee or transferee of a policy of life assurance under an assignment or transfer effected prior to the appointed date shall not be affected by the provisions of this section.

(7) Notwithstanding any law or custom having the force of law to the contrary, an assignment in favour of a person made with the condition that it shall be inoperative or that the interest shall pass to some other person on the happening of a specified event during the lifetime of the person whose life is insured, and an assignment in favour of survivor or survivors of a number of persons, shall be valid.

Acquisition of surrender value by policy.

25. (1) Where, in terms of a policy of life assurance, the policy is to mature upon death or upon survival to a fixed date or on earlier death, and the policy is subject to payment of premiums at an uniform rate for a fixed term or until earlier death, and all premiums have been paid for three consecutive years, the policy shall be deemed to acquire a surrender value, and, notwithstanding any contract to the contrary, shall not lapse by reason of non-payment of further premium but shall, notwithstanding such non-payment, be kept alive to the extent of its paid-up value.

For the purposes of this subsection, the paid-up value of a policy under which premiums are payable at a minimum rate for a fixed term or until earlier death shall be an amount bearing to the total sum assured by the policy the same proportion as the total of the premiums already paid on the policy bears to the total of the premiums payable under the policy.

(2) Where a debt owing to an insurer is secured by a policy of life assurance issued by the insurer and, under subsection (1), the policy is kept alive to the extent of its paid-up value, the insurer—

(a) may treat the debt as a debt secured by the policy so kept alive, and thereupon the policy so kept alive shall be a security for the debt, or

(b) may reduce the amount of such paid-up value by an amount the present value of which is equal to the amount of the debt, and thereupon the debt shall cease to be owing to the insurer.

(3) This section shall not apply in any case where—

(a) the sum assured is payable only on the happening of a contingency which may not arise ; or

(b) the paid-up value of the policy will be less than one hundred rupees ; or

(c) the parties after default has occurred in the payment of the premium agree in writing to some other arrangement; or

(d) the surrender value of the policy is automatically applied under the terms of the contract for maintaining the policy in force notwithstanding the non-payment of premiums.

26. No policy of life assurance shall after the expiry of two years from the date of the policy be called in question by any insurer on the ground that a statement made in the proposal or other document on the faith of which the policy was issued or reinstated, or in any report of a medical officer, or referee, or friend of the policy holder, was inaccurate or false unless the insurer shows that such a statement was made on a material matter or suppressed facts which it was material to disclose, and that it was fraudulently made by the policy holder and that the policy holder knew at the time of making it that the statement was

Policy not to be called in question on the ground of mis-statement after two years.

false or that it suppressed facts it was material to disclose;

Provided that nothing in this section shall prevent the insurer from calling for proof of age at any time if it is entitled to do so, and no policy shall be deemed to be called in question merely because the terms of the policy are adjusted on subsequent proof that the age of the life insured was incorrectly stated in the proposal.

Supply of notice of options, &c.

27. (1) Where any premium in respect of a policy of life assurance is not paid on the date on which it is payable, notice of the options available to the policy holder shall be given to him by the insurer before the expiry of a period of three months from the said date, unless such options are set out in the policy:

Provided that where two or more premiums in respect of the same policy are due and unpaid, nothing in this subsection shall apply to the case of the failure.

(2) Every notice under subsection (1) shall be deemed to have been duly given to the policy holder if it is sent to him to such address as may be specified in the policy or, where the address is not so specified, to the address to which a renewal premium notice or receipt was last sent by the insurer to the policy holder.

(3) Upon application made to an insurer in that behalf, and on payment of a fee of two rupees, the insurer shall supply to the policy holder or to his legal representative or to an assignee of the policy, a certified copy of the proposal for the policy and of the personal statement made to the medical officer by the proposer, unless copies thereof are attached to the policy.

Power of policy holder to nominate person or persons to whom the money secured by the policy shall be paid.

28. (1) The holder of a policy of life assurance may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death:

Provided that, where any nominee is a minor, it shall be lawful for the policy holder to appoint in the prescribed manner any person to receive the money secured by the policy in the event of his death during the minority of the nominee.

(2) A nomination under subsection (1) shall, unless it is incorporated in the text of the policy itself, be made by an endorsement on the policy and such endorsement shall by notice in writing be communicated to the insurer who shall register such endorsement in the record or register relating to that policy. Any such nomination may at any time before the policy matures for payment be cancelled or changed by another endorsement or a will of the policy holder, as the case may be, and unless notice in writing of any such cancellation or change has been given by the policy holder to the insurer, the insurer shall not be liable for any payment under the policy made bona fide by him to a nominee mentioned in the text of the policy or registered in records of the insurer.

(3) The insurer shall furnish to the policy holder a written acknowledgment of having registered a nomination or a cancellation or change thereof, and may charge a fee not exceeding one rupee for registering such cancellation or change.

(4) A transfer or assignment of a policy made in accordance with section 24 shall have the effect of cancelling a nomination:

Provided that the assignment of a policy to an insurer who bears the risk on the policy at the time of the assignment, in consideration of a loan granted by that insurer on the security of the policy within its surrender value, or its reassignment on repayment of the loan, shall not cancel a nomination, but shall affect the rights of the nominee only to the extent of the insurer's interest in the policy.

(5) Where the policy matures for payment during the lifetime of the person whose life is assured or where the nominee or, if there are more nominees than one, all the nominees die before the policy matures for payment, the amount secured by the policy shall be payable to the policy holder or his heirs or legal representatives, as the case may be.

(6) Where the nominee or, if there are more nominees than one, one or more of such nominees survive the person whose life

is assured, the amount secured by the policy shall be payable to such survivor or survivors.

whose policies mature for payment by reason of death or otherwise during the inter-valuation of period.

Restrictions on dividends and bonuses.

29. No insurer who or which carries on the business of life assurance in Sri Lanka shall, for the purposes of declaring or paying any dividend to shareholders or any bonus to policy holders of the company, if such insurer is a company, or of making any payment in service of any debentures, loans or advances on account, utilize directly or indirectly, any portion of the life assurance fund or of the funds of such other class or sub-class of insurance business, as the case may be, except a surplus shown in the valuation balance sheet as in Form H as set forth in the Fourth Schedule submitted to the Controller as part of the abstract referred to in section 37 as a result of an actuarial valuation of the assets and liabilities of the insurer; and such surplus shall not be increased by contributions out of any reserve fund or otherwise unless such contributions have been brought in as revenue through the revenue account applicable to life assurance business on or before the date of the valuation aforesaid, except when the reserve fund is made up solely of transfers from similar surpluses disclosed by valuation in respect of which returns have been submitted to the Controller under section 37 of this Act;

Provided that payments made out of any such surplus in service of any debentures, loans or advances on account shall not exceed ninety *per centum* of such surplus including any payment by way of interest on the debentures, loans or advances on account, and interest paid on the debentures, loans or advances on account shall not exceed ten *per centum* of any such surplus except when the interest paid on the debentures, loans or advances on account is offset against the interest credited to the fund concerned in deciding the interest basis adopted in the valuation disclosing the aforesaid surplus.

Declaration of interim bonus.

39. Notwithstanding anything contained in this Act to the contrary, an insurer shall be at liberty to declare on the recommendation of an actuary made at the last preceding valuation, an interim bonus or bonuses to life assurance policy holders

31. (1) Notwithstanding anything contained in any contract between any insurer and an insurance agent, who either has effected business for the insurer to the value of fifty thousand rupees or more, or has had three years of service under the insurer and whose name appears in the books of the insurer on the first day of August, 1960, as to the forfeiture of commission on renewal premiums or the cessation of payment of such commission to the insurance agent, no such insurer shall, in respect of life assurance business transacted in Sri Lanka, refuse payment, or be entitled to refuse payment, to such insurance agent of commission on renewal premiums due to him under the agreement by reason only of the termination of his agreement on any ground other than fraud.

Prohibition of cessation of payment of commission in certain cases.

(2) In any case where the commission on renewal premiums is in terms of any contract between such insurer and such insurance agent payable to the widow or other dependants of the agent after his death, then the restrictions set out in subsection (1) shall, in the event of the death of the agent, after the termination of his agreement, apply in relation to the payment of commission to such widow or dependants.

(3) Nothing in the preceding provisions of this section shall be deemed to render unlawful any agreement between an insurer and an insurance agent or the widow or dependants of the agent, as the case may be, for the commutation of the liability to make the payments referred to in those provisions.

(4) The provisions of this section shall apply to and in relation to contracts between insurers and insurance agents notwithstanding that such contracts may have been entered into prior to the appointed date.

32. (1) Subject to the provisions of the Insurance Corporation Act, an insurer who has prior to the appointed date transacted life assurance business in Sri Lanka shall not transfer the assets and liabilities relating

Restrictions on insurance and amalgamations-

to his life assurance business to any person other than to such an institution as may be declared by the Minister by notification published in the Gazette or amalgamate such assets and liabilities with the assets and liabilities of the life assurance business of any insurer other than such an institution.

(2) A transfer or an amalgamation permissible under subsection (1) shall not be valid unless the Commissioner-General of Inland Revenue has issued a certificate of tax clearance under his hand indicating that he is satisfied that the revenue of the Government of Sri Lanka will not be prejudiced by such transfer or amalgamation and that an appropriate sum has been paid by the insurer in commutation of his prospective liability to Sri Lanka income tax.

Restriction on the employment under certain conditions of persons in the capacity of managers or officers in charge of the business of insurers-

33. (I) Notwithstanding anything in the Companies Ordinance* or in the articles of association of an insurer, where such insurer is a company, or in any contract or agreement, no insurer shall after the expiry of six months after the appointed date be directed or managed by, or employ as manager or officer in any capacity, any person whose remuneration or any part thereof takes the form of commission or bonus or a share in the valuation surplus in respect of the life assurance business of the insurer:

Provided that nothing in this subsection shall be deemed to prohibit—

- (i) the payment of commission to a principal agent or an insurance agent in respect of life assurance business procured by or through him;
- (ii) the employment of any person in a clerical or other subordinate capacity who, as an insurance agent, receives commission in respect of insurance business procured by him;
- (iii) the employment as an officer of any person who receives renewal commission in respect of life assurance business procured by him in his capacity as an insurance

agent or as an employer of agents before the date of such employment or before the appointed date, whichever date is the later.

(2) Notwithstanding anything in the Companies Ordinance* or in the articles of association of an insurer, where such insurer is a company, or in any contract or agreement, no manager, managing director or any other person concerned in the management of an insurer's business shall be entitled to nominate a successor to his office, and no person so nominated, whether before or after the appointed date, shall be entitled to hold or to continue to hold such office,

(3) If, in the case of any insurance company, provision is made by the articles of association of the company or by an agreement entered into between any person and the company for empowering a director or manager or other officer of the company to assign his office to any other person, any assignment of office made in pursuance of the said provision, shall, notwithstanding anything contained in the said provision or in the Companies Ordinance*, be void,

(4) No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any provision of this section.

34. If by reason of a contravention of any of the provisions of section 33 any loss is sustained by an insurer or by any policy holder of that insurer, every director, manager, or officer of that insurer who is knowingly a party to such contravention shall, without prejudice to any other penalty to which he may be liable under this Act, be severally liable to make good the amount of such loss.

Liability of directors, &c., for loss due to contravention of section 33.

PART V

ACCOUNTS, INSPECTION AND INVESTIGATION

35. (1) Every Sri Lanka insurer in respect of all insurance business transacted by such insurer, and every foreign insurer in

Accounts and balance sheet-

* Repealed and replaced by the Companies Act, No. 17 of 1982.

respect of the insurance business transacted by such insurer in Sri Lanka, shall at the expiration of each calendar year prepare with reference to that year—

- (a) a balance sheet substantially in accordance with the regulations contained in Part I of the First Schedule and substantially in the form set forth in Part II of that Schedule,
- (b) a profit and loss account, and a profit and loss appropriation account substantially in accordance with the regulations contained in Part I of the Second Schedule, and substantially in the forms set forth in Part II of that Schedule except where the insurer carries on business of one class only and no other business,
- (c) in respect of each class of insurance business carried on by the insurer, a revenue account in accordance with the regulations contained in Part I of the Third Schedule, and a statement substantially in each of the forms set forth in Part II of that Schedule as may be applicable to that class of insurance business :

Provided that in the case of life assurance business transacted by any such insurer, such insurer shall prepare only such statements of accounts as may be prescribed.

(2) The accounts and statements referred to in subsection (1) shall be signed—

- (a) in the case of a company to which the Companies Ordinance* applies, by the officers or persons required by that Ordinance to sign accounts and statements;
- (b) in the case of any other company, by two directors;
- (c) in the case of any other insurer, by such insurer or the officer authorized by such insurer,

and shall be accompanied by a statement containing the names and descriptions of each of the persons in charge of the management of the business during the period to which such accounts and statements relate and by a report by such persons on the affairs of the business during that period.

36. (1) The annual balance sheet, profit and loss account, profit and loss appropriation account and revenue account prepared by each insurer under section 35 shall, unless they are subject to audit under the Companies Ordinance*, be audited by an auditor. Audit.

(2) For the purposes of the audit of any accounts under this section, an auditor shall have the same powers, exercise the same functions and discharge the same duties as an auditor of companies under the provisions of section 132 of the Companies Ordinance*.

37. (1) Every insurer shall, in respect of all life assurance business transacted by the insurer, cause an investigation to be made by an actuary once at least in every three years into the financial condition of such life assurance business, including a valuation of its liabilities in respect of that business, and shall cause an abstract to be made in accordance with the regulations contained in Part I of the Fourth Schedule and in conformity with the requirements of Part II of that Schedule : Actuarial report and abstract.

Provided that where an insurer is unable to establish to the satisfaction of the Controller that an investigation has been made by an actuary into the financial condition of the insurer's life assurance business in Sri Lanka as at a date not earlier than the thirty-first day of December, 1958, an investigation shall be made as at a date not later than the thirty-first day of December, 1961.

(2) The provisions of subsection (1) regarding the making of an abstract shall apply whenever at any other time an investigation into the financial condition of the insurer is made with a view to the distribution of surplus or an investigation is made the results of which are made public.

• Repealed and replaced by the Companies Act, No. 17 of 1982.

(3) There shall be appended to every abstract required by subsection (1) or subsection (2) a certificate signed by the insurer or authorized officer of the insurer, or where the insurer is a company, the director or principal officer of the company, that full and accurate particulars of every policy under which there is a liability either actual or contingent have been furnished to the actuary for the purposes of the investigation.

(4) There shall be appended to every abstract required by subsection (1) or subsection (2) a statement prepared in accordance with the regulations contained in Part I of the Fifth Schedule and in conformity with the requirements of Part II of that Schedule of the life assurance business subsisting at the date to which the accounts of the insurer are made up for the purposes of such abstract.

(5) Where an investigation into the financial condition of an insurer is made at a date other than the last date of the year of account, the accounts for the period elapsing after the end of the preceding year of account, and the balance sheet as at the date at which investigation is made, shall be prepared and audited in the manner provided for in this Act.

(6) Where by the law of the country in which a foreign insurer is constituted, incorporated or domiciled, the insurer is required to prepare and furnish to a public authority of that country documents substantially of the same nature as the documents to be furnished under this section, the insurer shall, within the time specified in section 38, furnish to the Controller four certified copies in the Sinhala or English language of every abstract, statement, account and return supplied to such public authority and the foregoing provisions of this section pertaining to investigation, valuation, abstracts, certificates and statements shall, in addition, apply separately to life assurance business transacted in Sri Lanka.

required by section 35 and the abstract and statements required by section 37 and shall furnish four copies thereof as returns to the Controller within six months after the end of the period to which they relate;

Provided that in the case of any foreign insurer or of a Sri Lanka insurer carrying on business outside Sri Lanka, the period allowed for furnishing such printed returns shall be nine months;

Provided, further, that the Controller may extend the period allowed for furnishing returns by a period not exceeding three months.

(2) One of the four copies furnished under subsection (1) shall be signed by the insurer, or where the insurer is a company, by the Directors.

39. (1) Where an insurance company incorporated in Sri Lanka furnishes in any year the accounts and balance sheets in accordance with the provisions of section 35, the company may at the same time send to the Registrar of Companies a copy of such accounts and balance sheet; and where such a copy is so sent it shall not be necessary for the company to file a balance sheet with the Registrar of Companies as required by section 121 (2) of the Companies Ordinance*, and the copy of the accounts and balance sheet so sent shall be chargeable with the same fees and shall be dealt with by the Registrar of Companies in all respects as if they were filed in accordance with that section.

Exemption from certain provisions of the Companies Ordinance.

(2) Where an insurance company which transacts motor vehicle insurance business in any year furnishes revenue and profit and loss accounts and a balance sheet in accordance with the provisions of section 35 of this Act such insurer shall be deemed to have complied with the provisions of regulation 4 of Part II of the Motor Traffic (Third Party Risks) Regulations, 1951.

40. Every insurer shall furnish to the Controller a certified copy of the report relating to the business of the insurer submitted to the shareholders of the

Furnishing of reports

Submission of returns,

38. (1) Every insurer shall cause to be printed the audited accounts and statements

* Repealed and replaced by the Companies Act, No. 17 of 1982.

company, in the case of an insurer which is a company, or the policy holders of the insurer, immediately after it is so submitted.

Furnishing copies of reinsurance treaties.

41. Every registered insurer shall from time to time furnish the Controller with certified copies of its reinsurance treaties (including treaties which are revised) relating to any class of insurance business transacted by such insurer in Sri Lanka:

Provided that certified copies of such reinsurance treaties as are in force on the appointed date shall be furnished not later than three months after the appointed date.

Powers of Controller regarding returns.

42. (1) If it appears to the Controller that any return furnished to him under the provisions of this Act is inaccurate or defective in any respect, he may—

- (a) require from the insurer such further information, certified if he so directs by such auditor or actuary as he may consider necessary to correct or supplement such return; or
- (b) call upon the insurer to submit for his examination at the registered office or the principal place of business of the insurer in Sri Lanka, any book of account, register, or other documents or to supply any statement which he may specify in a notice served on the insurer for the purpose; or
- (c) examine any officer of the insurer on oath or affirmation in relation to the return; or
- (d) decline to accept such return unless such further information as may be required by him is furnished before the expiry of one month from the date on which the requisition asking for such further information was delivered to the insurer or of such further time as the Controller may specify in the requisition ; and if the Controller declines to accept any such return, the insurer shall be deemed to have failed to comply with the provisions of section 38 relating to the furnishing of returns.

(2) The District Court may, on the application of an insurer and after hearing the Controller, direct the acceptance of any return which the Controller has declined to accept, if the insurer satisfies the Court that the action of the Controller was in the circumstances unreasonable:

Provided that no application under this subsection shall be entertained by the District Court unless it is made before the expiration of two months after the date on which the Controller made the order or declined to accept the return.

(3) The decision of the District Court in any application under this section shall be final and shall not be subject to any appeal.

43. (1) If it appears to the Controller that an investigation or valuation made under section 37 does not properly indicate the condition of the affairs of the insurer by reason of what appears to him to be a faulty basis adopted in the valuation, the Controller may after giving the insurer reasonable notice and an opportunity to be heard cause an investigation and valuation as at such date as he may specify to be made at the expense of the insurer by an actuary appointed by the insurer for that purpose and approved by the Controller, and the insurer shall place at the disposal of such actuary all the material required by such actuary for the purposes of the investigation and valuation within such period, not being less than three months, as the Controller may specify.

Power of Controller to order re-valuation.

(2) The provisions of subsections (1) and (4) of section 37 relating to the making of abstracts and the provisions of section 38 relating to the printing of statements shall apply in relation to any investigation and valuation to be made under this section :

Provided that the abstract and statements prepared as the result of such investigation and valuation shall be furnished on or before such date as the Controller may specify.

44. Where upon examination of the returns and reinsurance treaties furnished by any registered insurer it appears to the Controller that the deposit made by the

Power of Controller to increase deposit.

insurer under section 12 or that the amount of the assets in Sri Lanka in respect of insurance business of the insurer in Sri Lanka is inordinately low in relation to the volume of insurance business transacted by the insurer in Sri Lanka, the Controller may, after giving the insurer an opportunity of being heard, order the insurer to make an additional deposit and the provisions of subsections (2), (3), (4) and (5) of section 12 and the provisions of section 13 and section 14 shall apply to such additional deposit:

Provided, however, that where the insurer establishes to the satisfaction of the Controller that the assets of such insurer in Sri Lanka are adequate to meet the outstanding claims and unexpired risks in respect of the insurance business transacted in Sri Lanka by such insurer, the amount of such additional deposit, together with any deposit made under section 12, shall not exceed one-tenth of the premia paid in Sri Lanka in the financial year preceding the year in which such order is made in respect of the policies of insurance issued by such insurer.

Power of Controller to cancel registration.

45. Where, having regard to the financial aspect and the volume of business transacted by any insurer the Controller is of the opinion that such insurer cannot carry on any class of insurance business in a satisfactory and efficient manner, the Controller may, after giving such insurer an opportunity of being heard, cancel the registration of the insurer in so far as it relates to the particular class of insurance business.

Power to order inspection.

46. (1) Where the Controller—

- (a) has reason to believe—
 - (i) that the interests of the policy holders of an insurer are in danger; or
 - (ii) that any insurer is unable to meet his or its obligations or has made default in complying with any of the provisions of this Act • or

- (iii) that an offence under this Act has been or is likely to be committed by any such insurer or any officer; or

- (b) receives a requisition supported by an affidavit and signed by not less than fifty policy holders holding policies of life assurance which have been in force for not less than three years and which on maturity will be of a total value of not less than fifty thousand rupees, that an investigation into the affairs of the insurer be held ; or
- (c) receives a similar requisition in the case of an insurance company signed by not less than one-tenth of the shareholders of that company who shall not have less than one-tenth of the whole share capital,

the Controller may, subject to the provisions of subsection (2), after giving the insurer reasonable notice and an opportunity to be heard, order an investigation of the affairs of the insurer to be made by an auditor or an actuary or by both an auditor and an actuary appointed simultaneously or first an auditor only or an actuary only and afterwards by an actuary or auditor, or may himself make such investigation:

Provided that an auditor or actuary appointed for the purpose by the Controller shall not be an auditor or actuary in the employ of the insurer.

(2) The Controller may, as a condition precedent to the ordering of an investigation upon a requisition being sent therefor either by policy holders or by shareholders of an insurance company as provided in subsection (1), require the persons making the requisition to furnish security in such amount as he may deem sufficient to meet the cost to the insurer of the investigations.

(3) For the purpose of determining whether or not an order should be made under subsection (1), the Controller may exercise the powers conferred by paragraph (b) of section 42(1).

(4) The results of any investigation made under this section shall be recorded in writing by the auditor or actuary appointed, as the case may be, and copies of the record shall be supplied to the Controller and to the insurer, and to the shareholders of an insurance company or to the policy holders who have sent a requisition for such investigation.

(5) The Controller may by written notice require the insurer to comply within such time as may be specified therein (not being less than fifteen days from the receipt of the notice by the insurer) with such directions (including a direction that the insurer shall have sufficient funds to meet the liabilities under the policies of life assurance issued by him) as may in the opinion of the Controller be necessary for remedying the defects disclosed by any investigation made under this section.

(6) If, as a result of any investigation made under this section, the Controller is of opinion that it is necessary in the interests of the policy holders that the business of the insurer should be wound up, or if the insurer fails to comply with any directions issued under subsection (5), the Controller may, after giving the insurer reasonable notice and an opportunity to be heard, apply to the District Court or a Winding-up Tribunal for an order for the winding up of the business of the insurer.

(7) Where the investigation discloses that the requisition, if any, made therefor was made without reasonable cause, the Controller may order that the whole or any part of the amount deposited as security as a condition of the ordering of the investigation shall be forfeited and paid to the insurer in order to defray the costs incurred by the insurer in connexion with the investigation.

(8) The Minister may at any time by order in writing direct the Controller or any other person specified in the order to investigate the affairs of any insurer and to

report to him on any investigation made by him:

Provided that the Controller or the other person may, wherever necessary, employ an auditor or actuary or both for the purpose of assisting him in any investigation under this subsection.

46A. For the purposes of this Act, the Controller or other person authorized in that behalf by him in writing may hold an inquiry into the working and financial condition of any insurer which is a company incorporated under any law for the time being in force, and accordingly every director, manager or other officer or employee of such company, whether past or present shall, whenever required to do so by notice in writing by the Controller or such other person—

Power of Controller or person authorized by him to inquire into the working and financial condition of an insurance company. [§2,9 of 1967.]

- (a) furnish such information in regard to the affairs of such company and produce such books, accounts or documents in his custody as the Controller or such other person may require;
- (b) attend at such place and on such date and at such time as may be specified in such notice to be examined by the Controller or such other person in regard to any matter relating to the working and financial condition of such company.

47. When any investigation in respect of an insurance company is made under section 46, the provision of section 133 of the Companies Ordinance* shall apply for the purposes of such investigation as they apply to an investigation made in pursuance of that section of that Ordinance and all expenses of and incidental to such investigation shall be defrayed by the company and shall have priority over other debts due from the company.

Powers of Investigator.

48. Every insurer shall furnish to the Controller such further returns or abstracts or amended or substituted returns or abstracts as may be prescribed.

Further returns and abstracts

* Repealed and replaced by the Companies Act, No. 17 of 1982.

PART VI

PART VII

PUBLICITY

MANAGEMENT BY ADMINISTRATOR AND WINDING UP

Custody and inspection of documents.

49. (1) Every return furnished to the Controller under this Act or a certified copy thereof shall be kept at the office of the Controller and shall be open for inspection by any person with the approval of the Controller at such hours as he may specify.

(2) A person may obtain a copy of any such return or any part thereof, on payment of a fee calculated at the rate of twenty-five cents for every hundred words or part thereof required to be copied, any five figures being deemed for this purpose to be equivalent to one word.

Evidence of documents.

50. Every document purporting to be certified by the Controller to be a copy of a return furnished to him shall be deemed to be a copy of that return and shall be received in evidence as if it were the original return, unless some variation between it and the original return is proved.

Summary of returns to be published.

51. The Minister may cause to be published in each year, in such manner as he may direct, a summary of the accounts, balance sheets, statements, abstracts and other returns furnished or purporting to be furnished under this Act to the Controller and may append to such summary any note made by the Controller thereon and any correspondence in relation thereto ;

Provided, however, that no reference shall be made in any such note to any matter affecting any particular insurer unless the insurer has been afforded an opportunity to make representations against the inclusion of such reference in the note.

Returns to be published in statutory form.

52. No insurer shall publish in Sri Lanka any return in a form other than that in which it has been furnished to the Controller:

Provided that nothing contained in this section shall prevent an insurer from publishing a true and accurate abstract from such returns for the purpose of publicity.

When administrator may be appointed.

53. (1) If at any time the Controller has from information available to him from any source whatsoever reason to believe that an insurer, who is carrying on the business of life assurance, or the business of life assurance in conjunction with any other class of insurance business, has acted in a manner prejudicial to the interests of holders of insurance policies or is acting in a manner likely to be prejudicial to the interests of holders of insurance policies, he may, after giving such opportunity to the insurer to be heard as he thinks fit, make a report thereon to the Minister.

(2) The Minister, if he is of opinion after considering the report that it is necessary and proper to do so, may appoint an administrator to manage the business of the insurer under the direction and control of the Controller.

(3) An administrator appointed under subsection (2) shall receive such remuneration as the Minister may direct, and such remuneration shall be payable out of the funds of the business which is managed by the administrator.

(4) The management of the business of an insurer shall, on and after the date of appointment of an administrator under subsection (2), vest in such administrator:

Provided however that, except with the approval of the Controller, an administrator shall not issue any new policies of insurance.

(5) The Minister may at any time revoke the appointment of any person as administrator and appoint some other person as administrator, and thereupon the first-mentioned person shall be divested of the management of the affairs of the insurer.

(6) The Controller may issue such directions to the administrator as to his powers and duties as he deems desirable in the circumstances of the case, and the administrator may apply to the Controller at any time for instructions as to the

management of the business of the insurer or in relation to any matter arising in the course of such management.

Powers and duties of administrator.

54. (1) The administrator shall conduct the management of the business of the insurer with the greatest economy compatible with efficiency and shall, as soon as may be possible, file with the Controller a report stating which of the following courses is in the circumstances most advantageous to the general interests of the holders of life assurance policies, namely :—

(a) the transfer of the business to such an institution as the Controller may, with the approval of the Minister, determine, or

the winding up of the insurer, or

(c) such other course as he may deem advisable.

(2) On the filing of the report with the Controller, the Controller may take such action as he thinks fit for protecting and promoting the interests of the holders of insurance policies in general.

(3) Any act done by the Controller in pursuance of the powers vested in him under subsection (2) shall have effect,—

(a) if the insurer is a company, notwithstanding anything in the memorandum or articles of association of that company, and

(b) if the insurer is a person other than a company, notwithstanding anything in the instrument of incorporation of such insurer.

Cancellation of contracts and agreements.

55. An administrator may, at any time during the continuance of his management of the affairs of an insurer, cancel or vary (either unconditionally or subject to such conditions as he thinks fit to impose) any contract or agreement, other than a policy between the insurer and any other person, which the administrator is satisfied has been or is prejudicial to the interests of holders of

insurance policies. Before cancelling or varying any contract or agreement, the administrator shall give to all persons, who will be affected by such cancellation or variation, an opportunity of being heard.

56. If at any time, on a report made by the Controller in that behalf, it appears to the Minister that the purpose of the appointment of an administrator has been fulfilled or that for any reason it is undesirable that such appointment should continue, the Minister may revoke the appointment and thereupon the administrator shall be divested of the management of the insurance business which shall, unless otherwise directed by the Minister, again vest in the person in whom it was vested immediately prior to the date of appointment of the administrator.

57. Any decision of the Minister made in pursuance of section 53 or section 56 shall be final and shall not be called in question in any court.

58. If any director of an insurance company or any officer in charge of the business of an insurer fails to deliver to the administrator any book of account, register or any other documents in his custody, relating to the business of the insurer or insurance company the management of which has vested in the administrator, or retains any property of such insurer or company, he shall be guilty of an offence and shall be liable to imprisonment of either description for a period not exceeding six months, or a fine not exceeding one thousand rupees or both such imprisonment and fine.

59. No suit or prosecution shall lie against the Minister, or Controller or an administrator or any officer or other person for any act which is in good faith done or purported to be done in pursuance of any of the sections 53, 54, 55 or 56.

60. Notwithstanding anything in any other law, the business of an insurer shall not be wound up voluntarily except with the prior approval of the Controller.

Termination of appointment of administrator.

Finality of decision appointing administrator.

Penally for withholding documents or property from administrators.

No suit or prosecution to lie against the Minister, Controller, administrator or any officer or other person.

Voluntary winding up

Margin of solvency.

61. (I) An insurance company carrying on insurance business shall be deemed for the purposes of section 162 of the Companies Ordinance* (which section authorizes the court to wind up a company) to be unable to pay its debts, and any other insurer shall be deemed to be unable to pay the debts appertaining to the insurance business carried on by such insurer, if the value of the assets relating to the insurance business carried on by such company or other insurer, as the case may be, does not exceed the amount of the liabilities relating to such business by the amount of the deposit for the time being required to be maintained by such company or other insurer under section 12 of this Act or one-tenth of the general premium income for the preceding financial year, whichever is the greater; and the provisions of section 46 of this Act shall apply accordingly.

- (2) For the purposes of this section—
 - (a) in computing the amount of the assets of an insurer, no account shall be taken of any uncalled capital or fictitious or intangible assets,
 - (b) the value of the assets shall be computed at their market value or realizable value,
 - (c) in computing the amount of the liabilities of an insurer, all contingent and prospective liabilities shall be taken into account, but not liabilities in respect of share capital, and
 - (d) the general premium income of an insurer in any year shall be taken to be the net amount, after deduction of any premiums paid by the insurer for reinsurance of the premiums received by the insurer in that year in respect of all insurance business other than long-term insurance business.

Appointment of Winding-up Tribunals. [§ 3, 9 of 1967.]

62. (I) There may be appointed, for the purposes of this Act, one or more Winding-up Tribunals. Each such Tribunal shall consist of three members, of whom one

shall be a person who is or has been a Judge of a District Court, and such person shall be the Chairman of the Tribunal-

(2) A Winding-up Tribunal may choose one or more persons possessing special knowledge of any matter relating to any case under inquiry to assist the Tribunal in determining any question which has to be decided by it under this Act.

(3) Every Winding-up Tribunal shall have such powers of a civil court under the Civil Procedure Code as may be prescribed.

(4) Every Winding-up Tribunal may review any of its decisions in the event of there being a mistake on the face of the record or correct any arithmetical or clerical mistake therein.

63. (1) The District Court or a Winding-up Tribunal may order the winding up of any insurance company in accordance with the Companies Ordinance* and the provisions of that Ordinance shall, subject to the provisions of this Part of this Act, apply accordingly.

Circumstances under which the District Court or a Winding-up Tribunal may order the winding up of an insurer.

(2) The District Court or a Winding-up Tribunal may order the winding up of an insurer—

- (a) if a petition in that behalf is presented by not less than fifty holders of policies of life assurance issued by that insurer and which have been in force for not less than three years and which will on maturity be of the total value of not less than fifty thousand rupees ; or
- (b) if the Controller, who is hereby authorized to do so applies in that behalf to the District Court or to a Winding-up Tribunal on any of the following grounds, namely:—
 - (i) that the insurer has failed to comply with the provisions of section 12 and of section 44;
 - (ii) that the insurer having failed to comply with any requirement of this Act has

* Repealed and replaced by the Companies Act, No. 17 of 1982.

continued such failure, or having contravened any provisions of this Act, has continued such contravention, for a period of three months after notice of such failure or contravention has been conveyed to the insurer by the Controller;

- (iii) that it appears from the returns furnished under the provisions of this Act or from the results of any investigation made thereunder that the insurer is insolvent; or
- (iv) that the continuance of the insurer is prejudicial to the interests of the policy holders.

(3) Where any petition under paragraph (a) of subsection (2) is found to have been made frivolously or vexatiously, the District Court or Winding-up Tribunal may make order for the payment by the petitioners of the costs and expenses actually and reasonably incurred by the insurer in consequence of the petition and in the proceedings thereon.

Valuation of assets and liabilities.

64. (1) In the winding up of an insurer, the value of the assets and liabilities of the insurer shall be ascertained in such manner and upon such basis as the liquidator thinks fit, subject, as far as practicable, to the regulation contained in the Sixth Schedule to this Act and to any directions which may be given by the District Court or Winding-up Tribunal, as the case may be.

(2) For the purposes of any reduction by the District Court or Winding-up Tribunal of the amounts of the contracts of an insurer, the value of the assets and liabilities of the insurer and all claims in respect of policies issued by the insurer shall be ascertained in such manner and upon such basis as the Court or Winding-up Tribunal thinks proper having regard to the regulation in the Sixth Schedule to this Act.

Application of surplus of assets fund in liquidation.

65. (t) In the winding up of an insurer, the value of the assets and the liabilities of the insurer in respect of life assurance business shall be ascertained separately from the value of any other assets and liabilities of the insurer, and the first-mentioned assets shall not be applied for the discharge of any

liabilities other than those in respect of life assurance business except in so far as the first-mentioned assets exceed the liabilities in respect of life assurance business.

(2) Where in the winding up of any insurer carrying on the business of life assurance it is found that when the assets and liabilities of the insurer are ascertained there is a surplus of assets over liabilities (hereinafter referred to as a "prima facie surplus") and that any part of the surplus had, at any time during the ten years preceding the commencement of the winding up, been allocated to life policy holders, the following provisions shall have effect:—

- (i) there shall be added to the liabilities of the insurer in respect of the life assurance business an amount which bears to the prima facie surplus the same proportion as the aggregate amount of surplus so allocated to policy holders during the aforesaid ten years bears to the total surplus arising from the life assurance business in those ten years; and
- (ii) the assets of the insurer shall be deemed to exceed its liabilities only in so far as they are in excess after such addition is made :

Provided that—

- (a) if in any case there has been no such allocation or if it appears to the District Court or a Winding-up Tribunal that by reason of special circumstances it would be inequitable that the amount to be added to the liabilities of the insurer in respect of the life assurance business should be an amount equal to such proportion as aforesaid, the amount to be so added shall be such amount as the District Court or Winding-up Tribunal may direct, and
- (b) for the purpose of the application of this subsection to any case where before the commencement of the

winding up a proportion of such surplus as aforesaid of a category only of the life assurance business in question has been allocated to life policy holders, the value of the assets and liabilities of the insurer in respect of that category shall be separately ascertained in like manner as the value of the assets and liabilities of such insurer in respect of the life assurance business was ascertained, and any surplus so found of assets over liabilities shall, for the purpose of ascertaining the amount to be added to the liabilities of the insurer in respect of the life assurance business, be deemed to be prima facie surplus.

are proposed to be wound up, and may, if such insurer is a company, contain provisions for altering the memorandum of the insurance company with respect to its objects and such further provisions as may be expedient for giving effect to the scheme.

(3) The provisions of this Act relating to the valuation of liabilities of insurers in liquidation and to the applications of surplus assets of the life assurance fund in liquidation shall apply to the winding up of any part of the affairs of an insurer in accordance with the scheme under this section in like manner as they apply in the winding up of an insurer, and any scheme under this section in relation to a company may apply with the necessary modifications to any of the provisions of the Companies Ordinance* relating to the winding up of companies.

(4) An order of the District Court or a Winding-up Tribunal confirming a scheme under this section whereby, if the insurer is a company, the memorandum of that company is altered with respect to its object shall as respects the alteration have effect as if it were an order confirmed under section 6 of the Companies Ordinance*, and the provisions of that section shall apply accordingly,

(5) When making an order confirming a scheme under this section, the District Court or a Winding-up Tribunal may make such orders as it considers necessary for the disposal of so much of the deposit made by the insurer under section 12 or section 44 as does not relate to the classes of insurance business, if any, which the insurer continues to carry on.

68. In the winding up of an insurer for the purpose of a cash distribution of assets, the liquidator shall ascertain the value of the liability to each person appearing by the books of the insurer to be entitled to or interested in the policies granted by the insurer and shall give notice of such value to each such person in such manner as the District Court or Winding-up Tribunal may direct; and any person to whom notice is so given shall be bound by the value so ascertained, unless he gives notice of his

66. In the winding up of an insurer otherwise than in a case to which section 67 applies the liquidator shall apply to the District Court or a Winding-up Tribunal for an order for a return of the deposit made by the insurer under section 12 or section 44 and the Court or Winding-up Tribunal shall on such application order a return of the deposit subject to such terms and conditions as it shall direct.

Return of deposit on the application of a liquidator.

67. (1) If at any time it appears to be expedient that the affairs of an insurer in respect of any class of insurance business comprised in the undertaking of the insurer should be wound up but that any other class of insurance business comprised in the undertaking should continue to be carried on by the insurer or be transferred to such an institution as may be declared by the Minister by notification published in the Gazette a scheme for such purpose may be prepared and submitted for confirmation of the District Court or a Winding-up Tribunal in accordance with the provisions of this Act.

Scheme of partial winding up.

(2) Any scheme prepared under this section shall provide for the allocation and distribution of the assets and liabilities of the insurer between any classes of insurance business effected (including the allocation of any surplus assets which may arise on the proposed winding up), for any future rights of every class of policy holders in respect of their policies and for the manner of winding up of any of the affairs of the insurer which

* Repealed and replaced by the Companies Act, No. 17 of 1982.

intention to dispute such value in such manner and within such time as may be specified by the District Court or Winding-up Tribunal.

Power of District Court or Winding-up Tribunal to reduce contracts of insurer.

69. (1) Where an insurer is in liquidation, the District Court or Winding-up Tribunal may make an order reducing the amounts payable in respect of the insurance contracts of the insurer upon such terms and subject to such conditions as the District Court or Winding-up Tribunal thinks just.

(2) Where an insurer carrying on the business of life assurance has been proved to be insolvent, the District Court or Winding-up Tribunal may, if it thinks fit, in place of making a winding-up order reduce the amounts payable in respect of the insurance contracts of the insurer upon such terms and subject to such conditions as the District Court or Winding-up Tribunal thinks Just.

(3) Application for an order under this section may be made either by the liquidator or by or on behalf of the insurer or by a policy holder or by the Controller ; and the Controller and any person whom the District Court or Winding-up Tribunal thinks likely to be affected shall be entitled to be heard on any such application.

Right of certain holders of life assurance policies to have recourse in certain circumstances to other assets of persons who have issued such policies and who have wound up, or are taking steps to wind up the business of life assurance.

70. Where on or after the twenty-first day of July, 1960, a person carrying on the business of life assurance has wound up, or takes steps to wind up, such business and where the assets relating to such business have not been, or are not, sufficient to meet the liabilities subsisting under policies of life assurance issued by such person, then every holder of such a policy shall be entitled by action instituted in a court of competent jurisdiction to proceed against—

- (a) if such person is an individual, any other assets held by such individual on or after that date, or
- (b) if such person is a company, any other assets held by each director of such company on or after that date, or

- (c) if such person is a firm, any other assets held by each partner of that firm on or after that date,

and recover any sum outstanding under such policy of insurance.

PART VJII

OFFENCES

71. Any person who—

- (a) carries on any insurance business, or commences any insurance business, without being duly registered under this Act, or
- (b) carries on any class of insurance business which he is not authorized under this Act to carry on,

Offence of carrying on or commencing any insurance business without registration or of carrying on any class of insurance business not authorized.

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 one year or to both such fine and imprisonment.

72. Any person who solicits or procures in Sri Lanka insurance business of any class, or makes any offer referred to in paragraph (b) of section 84 (2) with the object of effecting any contract of insurance of any class, for or on behalf of a person not being an insurer duly authorized under this Act to carry on insurance business of that class, 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.

Offence of soliciting insurance business on behalf of unauthorized persons.

72A. If any person upon whom a notice is served under section 46A—

- (a) refuses or fails, without such cause as is in the opinion of the Controller or other person authorized by the Controller reasonable, to furnish such information or to produce such book, account or document as is required by such notice, or

Failure to comply with the provisions of section 46A, [§ 4, 9 of 1967.]

(b) fails, without such cause as is in the opinion of the Controller or other person authorized by the Controller reasonable, to appear on the date and at the time and place mentioned in such notice, or having appeared refuses or fails, without such cause as is in the opinion of the Controller or other person authorized by the Controller reasonable, to answer any question put to him relating to the matters under inquiry,

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.

Other Offences under this Act.

73. (1) Without prejudice to the provisions of section 58 or section 71 or section 72 by which a special penalty is prescribed for an offence, any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees and in the case of a continuing offence to a further fine not exceeding two hundred rupees for each day on which the offence is so continued after the conviction.

(2) Where an offence under this Act is committed by an insurer, every principal, agent, manager or other officer of the insurer, and, if the insurer is a company, every director of the company, shall also be guilty of the same offence and liable to the same punishment, unless he proves that the offence was committed without his knowledge or consent and that he had taken all reasonable steps to prevent the commission of the offence.

Institution of proceedings.

74. (1) A prosecution for any offence under this Act may be instituted by the Controller or by any other officer acting under the written authority of the Controller.

(2) No prosecution for any offence under this Act shall be instituted by any person other than the Controller or an officer acting under his authority, except with the prior written sanction of the Attorney-General.

75. If in any prosecution or other proceedings taken under this Act, it appears to the court that a person is or may be liable in respect of negligence, default or breach of duty, but that he has acted honestly and reasonably and that having regard to all the circumstances of the case, he ought fairly to be excused for such negligence, default or breach of duty, the court may relieve him fully or partly from his liability subject to such conditions as the court may seem fit.

PART IX

GENERAL

76. There may be appointed for the purposes of this Act—

Appointment of Controller of Insurance and other officers.

- (a) a person, by name or by office, to be or to act as the Controller of Insurance,
- (b) a person, by name or by office, to be or to act as the Deputy Controller of Insurance, and
- (c) such other officer, consultants and servants as may from time to time be required for the purposes of this Act.

77. (1) Any notice or other document required or authorized by or under this Act to be served on any insurer shall—

Service of notices.

- (a) if such insurer is a company, be served on any director or manager or officer thereof in accordance with the provisions in that behalf contained in the Companies Ordinance*, and
- (b) if such insurer is a person other than a company, be served on such insurer or the manager or principal agent of such insurer,

* Repealed and replaced by the Companies Act, No. 17 of 1982.

and, if so served, shall be deemed for the purposes of this Act to have been duly served.

[§ 5,9 of 1967.] (2) Any notice required to be served on any person under section 46A may be served on such person—

- (a) by the delivery thereof to such person, or by the delivery thereof at the last known place of abode of such person to some adult member of his family or to some servant of his:
- (b) by the delivery thereof at the usual or last known place of abode or business of such person in a cover addressed to such person ; or
- (c) by the despatch thereof by registered post in a letter addressed to such person at his usual or last known place of abode or business.

Power of Controller to settle claims arising under life assurance policies in which the sum assured does not exceed two thousand rupees.

78. (1) Where a dispute relating to the settlement of a claim on a policy of life assurance, by which the sum assured does not exceed two thousand rupees (exclusive of any profit or bonus not being a guaranteed profit or bonus) and which was issued by an insurer in respect of insurance business transacted by the insurer in Sri Lanka, arises between a claimant under the policy and the insurer who issued the policy or has otherwise assumed liability in respect thereof, the dispute may, at the option of the claimant, be referred to the Controller for his decision, and the Controller may, after giving an opportunity to the parties to be heard and after making such further inquiries as he may think fit, make his order on the dispute.

(2) The order of the Controller under this section shall be final and shall not be called in question in any court of law, and may, on application made by the Controller to the court in which, if the dispute had not been referred to the Controller, action would have been instituted in respect of the dispute, be executed by that court as if it were a decree entered by that court.

(3) The Controller shall be entitled to levy from the claimant such amount as may

be prescribed as his fees for the duties performed by him under this section. Such amount may be recovered in the prescribed manner from the claimant and shall on recovery be paid into the Consolidated Fund.

79. (1) The Minister may make Regulations. regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act or of amending any Schedule to this Act, and in particular in respect of matters required by this Act to be prescribed or in respect of which regulations are authorized to be made.

(2) No regulation made by the Minister shall have effect until it is approved by Parliament and notification of such approval is published in the Gazette. [§ 6,9 of 1967.]

79A. (1) Where the Controller or an administrator appointed under section 53 or any policy holder or member of an insurer which is a company incorporated under any law for the time being in force or the liquidator of any such insurance company in liquidation is of the opinion—

Power of Controller or an administrator appointed under section 53 or policy holder or member of an insurance company to apply in certain circumstances to a District Court for an order for payment of money or restoration of property by any person. [§7,9 of 1967.]

- (a) that any person whether he be a person who has taken part in the promotion or formation of such company or is a past or present director, managing agent or manager, or other officer or employee of such company—
 - (i) has misapplied or retained or become liable or accountable for any money or other property of such company, or
 - (ii) has been guilty of any misfeasance or breach of trust in relation to such company, or
 - (iii) has acted in a manner prejudicial to the interests of the policy holders of such company; or
- (b) that any person, whether he is or has been in any way connected with the affairs of such company or not, is in wrongful possession of any money or other property of such company or having any such money or other

property in his possession wrongfully withholds it, or has converted it to any use other than that of such company; or

- (c) that any person has by contravention of the provisions of this Act diminished the amount of the life assurance fund of such company,

then the Controller, or such administrator, policy holder, member or liquidator may, on application made to the District Court within the jurisdiction of which such company carries on business or such person resides, be entitled to an order—

- (a) for the payment by such person, to the life assurance fund of such company, of such sum by way of compensation as the Court thinks fit in respect of the misapplication, retention, misfeasance or breach of trust or acts prejudicial to the interests of the policy holders of such company, or
- (b) for the payment by such person to the life assurance fund of such company of such sum as may be found due from him in respect of any money or other property of such company for which he is accountable, or for the restoration of other property or part thereof, as the case may be, or
- (c) where the amount of the life assurance fund of such company has been diminished, for the payment by such person to such fund of such sum as the Court thinks fit.

(2) Every application under subsection (1) shall be made, and shall be disposed of, by way of summary procedure in accordance with the provisions of Chapter XXIV of the Civil Procedure Code.

(3) The provisions of Chapter XXII of the Civil Procedure Code relating to execution shall be applicable to any order of a District Court for the payment of any

money, or for the restoration of property in any application made under subsection (1), and for the purposes of the application of such provisions the Controller or other person making such application shall be deemed to be the judgment-creditor and the person liable to pay the money or restore the property in accordance with the order of the District Court shall be deemed to be the judgment-debtor.

(4) Where in any proceedings in any District Court arising out of an application under subsection (1) the Court is satisfied that any money or other property of the insurance company has disappeared or has been lost, the Court shall presume that every person in charge of, or having a disposing power over, such money or other property, whether such person is a director, manager, or other officer or employee of such company, is accountable for such money or other property unless such person proves—

- (a) that the money or other property had been utilized or disposed of in the ordinary course of the business of such company and for the purposes of that business, or
- (b) that he took all reasonable steps to prevent the disappearance or loss of such money or property or otherwise satisfactorily accounts for such disappearance or loss.

80. Save as expressly provided in this Act, the provisions of this Act relating to insurance companies shall have effect in addition to and not in substitution for the provisions of the Companies Ordinance*.

Application of Companies Ordinance*.

81. (1) Any insurer who is registered under the provisions of this Act to carry on motor vehicle insurance business shall be deemed to be an authorized insurer for the purposes of Part VI of the Motor Traffic Act.

Certain insurers deemed to be authorized insurers for the purposes of the Motor Traffic Act, and deemed to be granted licences under section 45 (1) of the Workmen's Compensation Ordinance.

(2) Any insurer who is registered under the provisions of this Act to carry on employers' liability Insurance business shall be deemed to have been granted a licence under the provisions of section 45 (1) of the

* Repealed and replaced by the Companies Act, No. 17 of 1982.

Workmen's Compensation Ordinance to undertake insurance against liabilities to workmen which may be incurred by employers under that Ordinance.

Duty of insurers who have disposed of assets relating to life assurance business prior to the appointed date.

82. Notwithstanding anything in the preceding provisions of this Act, where any insurer has, at any time between the twenty-fourth day of November, 1961, and the appointed date, committed any of the following acts,—

- (i) invested any moneys forming part of the assets relating to his life assurance business in investments other than in approved securities ;
- (ii) given loans of such moneys which are not in accordance with the provisions of this Act;
- (iii) in any manner whatsoever alienated such assets or any part thereof,

such act shall be deemed to be null and void, and it shall be the duty of such insurer, notwithstanding anything in any other law, to recover such moneys or assets by the institution of legal proceedings in a competent court;

Provided that this section shall not apply to any loan or investment given or made by an insurer if the Minister is satisfied that such loan or investment was made in the best interests of the policy holders of that insurer.

Repeals.

83. The Life Insurance Companies Ordinance, No. 11 of 1911, is hereby repealed.

Interpretation.

84. (1) In this Act, unless the context otherwise requires—

"actuary" means a person possessing such qualifications as may be prescribed;

"appointed date" means the 1st day of November 1962;

"approved project*" shall have the same meaning as "approved project" in

section 47A (1) of the Income Tax Ordinance;

" approved securities " means—

- (a) Government securities,
- (b) Government guaranteed securities,
- (c) Local authority securities,
- (d) Savings Bank Certificates, and deposits in the National Savings Bank,
- (e) shares of the Development Finance Corporation of Ceylon,
- (f) investments in any approved project, and
- (g) ordinary shares, preference shares, and debentures, of any institution in which the Government of Sri Lanka and private individuals participate jointly;

" auditor" means a person possessing such qualifications as may be prescribed;

" certified " in relation to any statement, account or return, or to any copy or translation of a document required to be furnished by or on behalf of an insurer, means that a certificate to the effect that such a statement, account or return is true and correct or that the copy is a true copy or that the translation is a correct translation, has been endorsed thereon or attached thereto by the insurer or the principal officer of the insurer authorized in that behalf, as the case may be;

" Controller" means the Controller of Insurance appointed for the purposes of this Act and includes the Deputy Controller of Insurance;

" District Court" means the District Court of the district in which the head office or principal place of business in Sri Lanka of an insurer is situated •

* There is no definition of " approved project " in the Inland Revenue Act. (No. 28 of 1979).

- " foreign insurance company " means a company formed and registered under the law in that behalf in any country other than Sri Lanka which has at any time carried on insurance business in Sri Lanka;
- " foreign insurer " means an insurer other than a Sri Lanka insurer;
- "Government guaranteed securities" includes any security in respect of a loan the repayment of which together with interest thereto is guaranteed by the Government of Sri Lanka;
- " Government securities " means promissory notes (including treasury bills), stock, bearer bonds, and any other security issued by or on behalf of the Government of Sri Lanka in respect of any loan raised either before or after the appointed date, but does not include a currency note;
- " insurance agents " means an individual who receives or agrees to receive payment from an insurer by way of commission or other remuneration in consideration for his soliciting or procuring insurance business including business relating to the continuance, renewal or revival of policies of insurance;
- " insurance business " means any of the following classes of business :—
- (a) life assurance business, that is to say, the business of entering into or maintaining contracts of assurance on human lives, such contracts including contracts whereby the payment of money is assured on death or on the happening of any contingency dependent on human life, and contracts which are subject to payment of premiums for a term dependent on human life and such contracts being deemed to include—
 - (i) contracts for the granting of disability and double or triple indemnity accident and sickness benefits if so specified in such contracts,
 - (ii) contracts for the grant of annuities dependent on human life, and
 - (iii) contracts relating to capital redemption business;
 - (b) marine insurance business, that is to say, the business of effecting contracts of insurance upon vessels of any description, including cargoes and freights, and other interest which may legally be insured in or in relation to such vessels, cargoes and freights, goods, wares, merchandise and property of whatever description insured for any transit by land or water, or both, and whether or not including warehouse risks or similar risks in addition or as are incidental to such transit and includes any other risks customarily included among the risks insured against in marine insurance policies;
 - (c) fire insurance business, that is to say, the business of effecting, otherwise than incidentally to some other class of insurance business, contracts of insurance against loss by or incidental to fire or other occurrence customarily included among the risks insured against in fire insurance policies;
 - (d) motor vehicle insurance business, that is to say, the business of effecting contracts of insurance against loss of motor vehicles or damage

arising out of or in connexion with the use of motor vehicles, including third-party risks;

employs a representative or maintains a place of business in Sri Lanka,

(e) employers' liability insurance business, that is to say, the issue of, or the undertaking of liability under, policies insuring employers against liability to pay compensation or damages to workmen in their employment;

and shall be deemed to include an individual, any body corporate, or unincorporated body of individuals who or which has prior to the appointed date carried on or transacted insurance business, liability in respect of which remains unpaid or undischarged on the appointed date;

(f) miscellaneous insurance business, including personal accident insurance business, aircraft insurance business, fidelity guarantee insurance business, burglary insurance business, cash in transit insurance business and cash in safe insurance business but excluding insurance business which is not principally or wholly of any kind or kinds included in paragraphs (b), (c), (d) and (e) and excluding insurance business involving contracts of a long-term nature;

"local authority securities" means any security that may be issued, in accordance with the law in force for the time being by any local authority in Sri Lanka;

"long-term business" means insurance business of all or any of the following classes, namely, life assurance business and bond investment business, and includes in relation to any insurer, insurance business carried on by the insurer as incidental only to any such class of business;

insurer " means—

(a) any body corporate carrying on or transacting insurance business and being incorporated under any law for the time being in force in Sri Lanka;

"manager" means a person who, subject to the control and supervision of the insurer, or if the insurer is a company, of the directors, has the management of the whole of the affairs of an insurer, and includes any other person occupying the position of a manager, by whatever name called, and whether under a contract of service or not;

(b) an individual or unincorporated body of individuals or body corporate incorporated under the law of any country other than Sri Lanka, who or which carries on or transacts insurance business and who or which—

"officer" or "principal officer" includes any director, managing director, manager or secretary of an insurer;

(i) carries on that business in Sri Lanka, or

(ii) has his or its principal place of business or his or its domicile in Sri Lanka, or

(iii) with the object of offering insurance business

"policy holder" includes a person to whom the whole of the interest of the policy holder in the policy is assigned once and for all, but does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any condition;

- " principal agent" means a person who, not being a salaried employee of an insurer, in consideration of any commission—
- (i) performs any administrative and organizing function for the insurer, and
 - (ii) procures insurance business ;
- " prescribed " means prescribed by regulation made under this Act;
- " Sri Lanka insurer " means in the case of a company any body corporate carrying on or transacting insurance business and being incorporated under any law for the time being in force in Sri Lanka and shall be deemed to include any such body corporate that has prior to the appointed date carried on or transacted insurance business, liability in respect of which remains unpaid or undischarged on the appointed date;
- "Winding-up Tribunal" means a Tribunal appointed under section 62 of this Act.
- (2) For the purposes of this Act, a person shall be deemed to carry on or transact insurance business of any class in Sri Lanka if such person—
- (a) issues, or undertakes liability under, any policy or contract of insurance of that class to or with a person for the time being in Sri Lanka; or
 - (b) offers whether orally or in writing to issue, or undertake liability under, any policy or contract whether such offer is made directly to any such person or generally to any such person by the publication, transmission, or circulation of any advertisement, book, pamphlet, or any document whatsoever; or
 - (c) employs, engages or in any other manner causes or encourages, any person to make any such offer as aforesaid whether or not any remuneration is paid or payable to such other person.

FIRST SCHEDULE

[Section 35.]

REGULATIONS AND FORMS FOR THE PREPARATION OF BALANCE SHEET

PART I

REGULATIONS

1. (i) The balance sheet required to be prepared by an insurer must be in Form A set out in Part II of this Schedule.

(2) Form A set out in Part II of this Schedule, which is intended to be used by an insurer who carries on insurance business and who has undischarged liabilities in respect of life assurance policies issued by such insurer, must be used with the necessary modifications in the case of an insurer who does not have such undischarged liabilities or in the case of an insurer who also has undischarged liabilities on bond investment business.
2. The balance sheet of the life assurance business, the balance sheet relating to any other class of insurance business, and the balance sheet of bond investment business shall each be prepared as a separate document. The totals of each separate balance sheet prepared by any insurer under this regulation, that is to say, the total assets of the long-term business and insurance business, the balance in the credit of the life assurance fund and of every other separate fund or account, the amount of the shareholders' undivided profits, and outstanding liabilities shall in every case be incorporated in the general balance sheet of that insurer.

3. Every combined balance sheet issued for any purpose by an insurer, shall be in Form A referred to in regulation I. There shall not be included among the assets shown in any combined balance sheet any amount in respect of any holding in or advance to any insurer whose assets and liabilities have been incorporated therein. Every combined balance sheet must show clearly on the face thereof that it is a combined balance sheet, and must set out fully the name of every insurer whose assets and liabilities have been incorporated therein; and where the assets and liabilities of any person who is not an insurer are included in the combined balance sheet the fact must be expressly stated in the balance sheet.

4. Where any guarantee has been given by an insurer (otherwise than in the ordinary course of reinsurance business) in respect of the policies of one or more other insurers, the balance sheet of the first-mentioned insurer must show clearly the name of each other insurer whose policies have been so guaranteed and the extent of the guarantee:

Provided that this regulation shall not apply where a combined balance sheet is issued incorporating the assets and liabilities of the insurer whose policies are guaranteed.

5. Where any part of the assets of an insurer is deposited in any place outside Sri Lanka as security for the owners of the insurance policies issued in that place, the balance sheet must state that such part of the assets has been so deposited, and, if any such part forms part of the life assurance fund, the balance sheet must show the amount thereof and the place where it is deposited. Where any combined balance sheet is issued by an insurer for any purpose, the information required by this regulation must be shown in the aggregate in respect of all the insurers whose assets and liabilities have been incorporated in the balance sheet.

6. There shall be appended to the balance sheet of each insurer a statement, in Form AA set out in Part II of this Schedule, showing the value of the assets of that insurer in Sri Lanka together with a certificate by an auditor that the stated value does not in his opinion exceed the market value.

7. Every balance sheet must have the following certificates set out therein, namely—

- (a) a certificate signed by the same persons as are required by this Act to sign the balance sheet, as to the manner in which the values of the investments in stocks and shares shown in the balance sheet have been arrived at, and the market value thereof has been ascertained for the purpose of comparison with the values so shown;
- (b) a certificate signed by the same persons as are required by this Act to sign the balance sheet and signed also, so far as respects the value of any items shown in the balance sheet under the heading of "Reversions and Life Interests", by an actuary to the effect that the values of all the assets have been reviewed as at the date of the balance sheet, and that in their belief the assets set forth in the balance sheet are shown in the aggregate at amounts not exceeding their realisable or market value under the several headings- "Loans", "Reversions and Life Interests", "Investments", "Agents' Balances", "Outstanding Premiums", "Interest, Dividends and Rents accruing but not due", "Amounts due from other persons or bodies carrying on Insurance business" separately for Sri Lanka Insurers and for Foreign Insurers, "Sundry Debtors", "Bills Receivable", "Cash" and the several items specified under "Other Accounts";

Provided that in any case where it is not possible to certify that the assets set forth in the balance sheet are shown as required by this regulation a full explanation of the bases upon which the values shown in the balance sheet have been assessed shall be given in the certificate ;

- (c) where the balance sheet relates either wholly or in part to life assurance business, a certificate signed by the same persons as are required by this Act to sign the balance sheet and by the auditor, to the effect that no part of the assets of the life assurance fund has been directly or indirectly applied in contravention of the provisions of this Act relating to the application and investment of life assurance funds; and
- (d) certificates signed by the auditor (which shall be in addition to any other certificate or report which he is required by law to give with respect to the balance sheet) to the effect—
 - (i) that he has verified the cash balances and the securities relating to the insurer's loans, reversions and life interests, and investments,
 - (ii) to what extent, if any, he has verified the investments and transactions relating to any trusts undertaken by the insurer as trustee ; and
 - (iii) in the case of a combined balance sheet that he has audited the balance sheet and accounts of every insurer whose assets and liabilities are incorporated therein, or that any such balance sheet and accounts which have not been audited by him have been certified by independent auditors. The said certificate shall contain a reference to such reservations, if any, as may have been made by any auditor upon any report or certificate given by him with respect to the balance sheet and accounts of any insurer whose assets and liabilities are incorporated in the combined balance sheet.

8. If the values shown in the balance sheet in respect of "Holdings in Subsidiary Companies" or "House property" (i) in Sri Lanka (ii) out of Sri Lanka have been increased since the last previous balance sheet, the certificate required by paragraph (b) of regulation 7 shall state the amount of every increase not solely due to the cost of subsequent additions or, as respects holdings in controlled companies, to increased profits, and shall contain an explanation of the reason for such increase in values.

9. For the purposes of this Schedule, the following expressions have the meaning hereby respectively assigned to them, namely:—

- (a) "combined balance sheet" includes any combined statement of assets and liabilities made by an insurer in the form of a balance sheet which includes the assets and liabilities of any other insurer; and
- (b) "market value", as respects any asset, means the market value thereof as ascertained from published market quotations, or, if there be no such quotations published, its fair value as between a willing buyer and a willing seller.

PART II

FORM A

FORM OF BALANCE SHEET

Balance Sheet of as at 19

	Life Assurance Rs. c.	General Business Rs. c.		Life Assurance Rs. c.	General Business Rs. c.
Shareholders' capital (each class to be stated separately) ..			Loans on Mortgages of Property in Sri Lanka ..		
Authorized shares of Rs. each Rs.			Loans on Mortgages of Property out of Sri Lanka ..		
Subscribed shares of Rs. each Rs.			Loans on Policies ..		
Called up shares of Rs. each Rs.			Other loans (to be specified) (c) ..		
Less unpaid calls Rs.			Reversions and Life Interests ..		
Reserve or Contingency accounts (a) ..			Debenture Stocks (c) ..		
Investment Revenue Account ..			Deposit with Deputy Secretary to Treasury (securities to be specified) ..		
Profit and Loss Appropriation account ..			Sri Lanka Government securities ..		
Life Assurance Fund ..			Foreign Government securities ..		
(i) Business in Sri Lanka ..			Sri Lanka Government guaranteed securities ..		
(ii) Business outside Sri Lanka ..			Preference shares of concerns in Sri Lanka (c) ..		
Fire Insurance Account ..			Preference shares of concerns out of Sri Lanka ..		
Marine Insurance Account ..			Ordinary shares of concerns in Sri Lanka (c) ..		
Motor Vehicle Insurance Account ..			Ordinary shares of concerns out of Sri Lanka ..		
Employers' Liability Insurance Account ..			Land and House property in Sri Lanka ..		
Miscellaneous Insurance Account ..			Land and House property out of Sri Lanka ..		
Other accounts (to be specified) ..			Agents' Balances ..		
Loans and advances (b) ..			Outstanding Premiums ..		
Claims admitted or intimated but not paid ..			Interest, Dividends and Rents outstanding ..		
Life assurance ..			Interest accruing but not due ..		
Fire Insurance ..			Amounts due from other persons or bodies carrying on Insurance business (d) ..		
Marine Insurance ..			Sri Lanka Rs.		
Motor Vehicle Insurance ..			Foreign Rs.		
Employers' liability Insurance ..					
Miscellaneous Insurance ..					

CONTROL OF INSURANCE

FORM A (Contd.)

	Life Assurance Rs. c.	General Business Rs. c.		Life Assurance Rs. c.	General Business Rs. c.
Amounts due to other persons or Bodies carrying on Insurance business (b) . .			Sundry Debtors (e) . .		
Sri Lanka Rs			Cash on deposit account - •		
Foreign Rs			Bank Accounts . .		
Sundry Creditors (b) • .			Other accounts (to be specified (f) . .		
Other sums owing (to be specified) (b) . .					
Contingent Liabilities (to be specified) (b) . .					

NOTES

(a) The Reserves or Contingency Accounts must be separately stated.

(b) If the insurer has deposited security as cover in respect of any of these items, the amount and nature of the securities so deposited must be clearly indicated on the face of the balance sheet.

(c) Full particulars of holdings in and loans to subsidiary companies must be stated giving the name of each company, the number and description of each class of shares held, the amounts paid thereon, and the value at which the holdings in each company stand in the balance sheet.

(d) The aggregate amount owing by a subsidiary company or subsidiary companies must be shown separately from all other assets and the aggregate amount owing to a subsidiary company or subsidiary companies must be shown separately from all other liabilities.

(e) Amounts due from directors and from officers must be shown separately.

(f) Under this heading must be included such items as the following, which must be shown under separated headings suitably described :- office furniture, goodwill, preliminary formation and organization expenses, development expenditure account, other expenditure carried forward to be written off in future years, balance being loss on profit and loss appropriation accounts, etc. The amounts included in the balance sheet must not be in excess of cost.

CONTROL OF INSURANCE

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FORM AA

Classified Summary of the Assets in Sri Lanka of the
..... 19

Class of Asset	(a) Book Value Rs.	W Market Value Rs.	(c) Remarks
1. Government Securities	. .		
2. Government Guaranteed Securities	. .		
3. Local Authority Securities	. .		
4. Debentures of concerns in Sri Lanka (approved)	• •		
5. Debentures of concerns in Sri Lanka (unapproved)	. .		
6. Preference Shares of concerns in Sri Lanka (approved)	• •		
7. Preference Shares of concerns in Sri Lanka (unapproved)	. .		
8. Ordinary Shares of concerns in Sri Lanka (approved)	- •		
9. Ordinary Shares of concerns in Sri Lanka (unapproved)	- .		
10. Loans on Company's policies in Sri Lanka	- •		
11. Loans on mortgage of property in Sri Lanka	. .		
12. Other loans granted in Sri Lanka (particulars to be stated)	. -		
13. Land and House Property in Sri Lanka	. .		
14. Buildings	. .		
15. Savings Bank Certificates	. .		
16. Deposits in National Savings Bank	• •		
17. Cash at Commercial Banks	. .		
18. Interest, dividends and rents outstanding	. .		
19. Agents' balances and outstanding premia	. .		
20. Other Assets in Sri Lanka (to be specified)	. .		

The statement shall show—

- (o) the value for which credit is taken in the balance sheet for each of the above-mentioned classes of assets,
- (b) the market value of such of the above-mentioned classes of assets as has been ascertained from published quotations after deduction of accrued interest included in market prices in those cases where accrued interest is included elsewhere in the balance sheet, and
- (c) how the value of such of the above-mentioned classes as has not been ascertained from published quotations has been arrived at.

SECOND SCHEDULE

[Section 35.]

REGULATIONS AND FORMS FOR THE PREPARATION OF PROFIT AND LOSS ACCOUNTS

PART I

REGULATIONS

1. The items on the income side of the profit and loss account and profit and loss appropriation account must relate to income whether actually received or not, and the items on the expenditure side must relate to expenditure whether actually paid or not.

2. Deduction from Interest, Dividends and Rents shown in respect of income tax must include all amounts in respect of Sri Lanka Income Tax whether or not it has been or is to be deducted at source or paid direct.

CONTROL OF INSURANCE

PART II

Forms

FORM B

FORM OF PROFIT AND LOSS ACCOUNT

Profit and Loss Account of _____ for the year ended _____ 19____

	Rs. c.			Rs. c.
Taxes not applicable to any particular Fund or Account . . .		Interest, Dividends and Rents (not applicable to any particular Fund or Account) . . .	Rs.	
Expenses of Management not applicable to any particular Fund or Account (a) • •		<i>Less</i> Income Tax thereon	Rs.	
Loss on Realization of Investments (not charged to Revenue or any particular Fund or Account) . . .		Profit on Realization of Investments (not credited to Revenue or any particular Fund or Account) . . .		
Depreciation of Investments (not charged to Revenue or any particular Fund or Account) . . .		Appreciation of Investments (not credited to revenue or any particular Fund or Account) . . .		
Loss transferred from Revenue Accounts (details to be given) . . .		Profit transferred from Revenue Accounts (details to be given) . . .		
Other Expenditure (to be specified) . . .		Transfer fees . . .		
Balance for the year carried to Profit and Loss Appropriation Account . . .		Other Income (to be specified) - -		
		Balance being loss for the year carried to Appropriation Account . . .		

(a) If any sum has been deducted from this item and entered on the assets side of the balance sheet, the amount must be shown separately.

FORM C

FORM OF PROFIT AND LOSS APPROPRIATION ACCOUNT

Profit and Loss Appropriation Account of _____ for the year ended _____ 19____

	Rs. c.			Rs. c.
Balance being loss for the year brought down from Profit and Loss Account (as in Form B) . . .		Balance brought forward from last year <i>less</i> dividends since paid in respect of last year (to be specified) Rs.....		
Dividends paid during the year on account of the current year (to be specified)		Balance for the year brought from Profit and Loss Account (as in Form B)		
Transfers to any particular Funds or Accounts (details to be given) . . .				
Balance at end of year as shown in the Balance Sheet . . .				

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THIRD SCHEDULE

(Section 35.]

REGULATIONS AND FORMS FOR THE PREPARATION OF REVENUE ACCOUNTS

PART I

REGULATIONS

1. The revenue account relating to life assurance business must be in Form D set out in Part II of this Schedule.
2. A separate revenue account must be prepared for every class of business in respect of which the insurer is required to maintain a separate account.
3. The revenue account relating to marine insurance business must be in Form E set out in Part II of this Schedule.
4. The revenue account relating to fire insurance business must be in Form E set out in Part II of this Schedule.
5. A separate revenue account substantially in Form E must be prepared in respect of motor vehicle insurance business, employers' liability insurance business and miscellaneous insurance business.
6. Every combined revenue account issued for any purpose by an insurer—
 - (fl) must be in accordance with the Forms set out in Part II of this Schedule;
 - (fb) must clearly show on the face thereof that it is a combined revenue account;
 - (c) must set out fully the name of every insurer who is required to make separate returns under this Act and whose revenue and expenditure have been included therein ; and
 - (rf) if the revenue and expenditure of any person who is not an insurer are included in the account, the fact must be expressly stated thereon.
7. The items on the income side of the revenue account must relate to income whether actually received or not, and the items on the expenditure side must relate to expenditure whether actually paid or not.
8. Insurance business (excluding life assurance business), reinsurance premiums, whether on business ceded or accepted, must be brought into account as gross amounts. Net amounts, ordinary reinsurance commissions and reinsurance profits commissions must be shown separately.
9. In respect of the life assurance business carried on by each insurer, there shall be furnished annually to the Controller a statement, setting out full details, in each of the Forms DD, DDD, and DDDD set out in Part II of this Schedule.
10. Premiums received under each class of insurance business in Sri Lanka must be shown separately from Premiums in respect of business out of Sri Lanka.
11. Any office premises which form part of the assets of an insurer carrying on life assurance business must be treated as an investment on which interest accrues, and accordingly, in the revenue account relating to the life assurance business a fair rent for the premises must be included under the heading "Interest, Dividends and Rents ", and in the revenue account relating to every other class of business for which the premises are used proper charges for the use thereof must be included under the heading " Expenses of Management " .
12. Where an insurer carries on the business of life assurance in conjunction with any other class of insurance business, the expenses of management charged to the life assurance revenue account must not include more than a reasonable proportion of the common expenses, and in particular, such account must not be charged with more than a fair sum for the use of any office premises, having regard to the income from the various classes of business carried on and to the extent to which [he premises are used for the purposes of each class of business.
13. Deductions in respect of income tax from the Interest, Dividends and Rents must include all income tax charged thereon, whether or not it has been or is to be deducted at source or paid direct.

CONTROL OF INSURANCE

PART II

Forms

FORM D

FORM OF REVENUE ACCOUNT APPLICABLE TO LIFE ASSURANCE BUSINESS

Revenue Account of for the year ended 19

	Busi- ness within Sri Lanka Rs.	Busi- ness out of Sri Lanka Rs.	Total Rs.		Busi- ness within Sri Lanka Rs.	Busi- ness out of Sri Lanka Rs.	Total Rs.
Claims under Policies (including provisions for claims due or intimated), <i>less</i> Re- insurances—				Balance of Fund at the beginning of the year			
By death . . .				Premiums <i>less</i> Re- insurances—			
By maturity . . .				(i) First year premiums . . .			
Annuities, <i>less</i>				(ii) Renewal pre- miums - -			
Reinsurances . . .				(iii) Single premiums			
Surrenders (including Surrenders of Bonus), <i>less</i> Reinsurances . . .				Consideration for Annuities granted, <i>less</i> Reinsurances <i>[b]</i>			
Bonuses in cash, <i>less</i>				Interest, Dividends and Rent . . .			
Reinsurances . . .				<i>Less</i> Income tax thereon (c) . . .			
Bonuses in Reduction of Premiums, <i>less</i> Re- insurances . . .				Registration Fees . . .			
Commission (<i>less</i> that on Reinsurances) . . .				Other Income (to be specified) <i>(d)</i> . . .			
Expenses of Management (<i>"/</i>)				Deficit transferred to Profit and Loss Account . . .			
1. Commission and allowances . . .				Transferred from Appropriation Account . . .			
2. Salaries, &c. (other than to agents and those contained in item No. 1)							
3. Travelling Expenses							
4. Directors' fees . . .							
5. Auditors' fees . . .							
6. Law charges . . .							
7. Advertisements . . .							
8. Printing and Sta- tionery . . .							
9. Other expenses of management (ac- counts to be specified)							
10. Other payments (accounts to be specified) . . .							
11. Rents for offices belonging to and occupied by the insurer . . .							

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FORM D (Comd.)

	Business within Sri Lanka Rs.	Business out of Sri Lanka Rs.	Total Rs.		Business within Sri Lanka Rs.	Business out of Sri Lanka Rs.	Total Rs.
12. Rents of other offices occupied by the insurer . . .							
Bad Debts . . .							
Sri Lanka and Foreign Taxes . . .							
Other Expenditure (to be specified) . . .							
Surplus transferred to Profit and Loss Account . . .							
Balance of Fund at the end of the year as shown in the Balance Sheet . . .							

NOTES

(a) If any sum has been deducted from this item and entered on the assets side of the balance sheet, the amount so deducted must be shown separately. Under this item the salary paid to the managing agent or managing director shall be shown separately from the total amount paid as salaries to the remaining staff.

(b) All single premiums for annuities, whether immediate or deferred, must be Included under this heading.

(c) Sri Lanka and foreign income tax on interest, dividends and rents must be shown undei this heading, less any rebates of income tax recovered from the revenue authorities in respect of expenses of management. The separate heading on the other side of the account is for Sri Lanka and foreign taxes, other than those shown under this item.

((/) Under the head 'Other Income' fines, if any, realized from the staff must be shown separately. All the amounts received by the insurer directly or indirectly whether from his head office or from any other source outside Sri Lanka shall also be shown separately in the revenue account except such sums as properly appertain to the capital account.

FORM DD

Classified Statement of Life Assurance Policies of the _____ for the year ending _____ 19__

	New life assurance business in respect of which a premium has been paid in the year				Total life assurance business in force at end of the year		Premium income for which credit has been taken in the revenue account
	Number of policies	Sums Insured and annuities per annum	Single premiums (including consideration for immediate annuities and all other premiums paid at the outset where no subsequent premium is payable)	Yearly renewal premium income	Number of policies	Sums insured with bonuses and annuities per annum	
		Rs,	Rs.	Rs.		Rs.	Rs,
Ordinary policies— In Sri Lanka . . . Out of Sri Lanka . . . Total . . .							
Annuity contracts, &c.— In Sri Lanka . . . Out of Sri Lanka . . . Total . . .							
Group insurance policies— In Sri Lanka . . . Out of Sri Lanka . . . Total . . .							

The amounts should be stated to the nearest rupee and after deduction of reinsurance.

CONTROL OF INSURANCE

FORM DDD

Additional to and Deductions from Policies of the.....for..... ending.....19

	Ordinary life assurance policies insuring money to be paid on death or survival			Annuities	
	Number	Sum assured	Reversionary bonus additions	Number	Annuity per annum
		Rs.			Rs.
1. Policies at beginning of year					
2. New policies issued . . .					
3. Old policies re-issued . . .					
4. Old policies changed and increased . . .					
5. Bonus additions allotted . . .					
TOTAL . . .					
Discontinued during year					
6. By death . . .					
7. By survival or the happening of the contingencies insured against other than death					
8. By expiry of term under temporary insurance					
9. By surrender of policy . . .					
10. By surrender of bonus . . .					
11. By forfeiture or lapse . . .					
12. By change and decrease . . .					
13. By being not taken up . . .					
Total discontinued . . .					
Total existing at end of year					

FORM DDDD

Particulars of the policies forfeited or lapsed in the last financial year under review, less those revived and reinstated for full benefits, classified according to the year in which they were issued—

Financial year in which the policies were issued	Number of policies forfeited or lapsed	Sum insured under policies forfeited or lapsed
Year ending , 19 being the year under review		Rs.
Year ending 19 being the year previous to that under review		

And so on the number of and sum insured under policies forfeited or lapsed in the last financial year under review being stated after classification according to each of the preceding years in which they were issued.

A separate statement must be given in respect of each class of life assurance business for which a separate revenue account is submitted.

Insurers having their principal place of business in Sri Lanka shall give the information required in the form separately for business transacted in Sri Lanka and business transacted outside Sri Lanka and insurers having their principal place of business outside Sri Lanka will furnish information regarding business transacted in Sri Lanka only.

REGULATION FOR THE PREPARATION OF ABSTRACTS OF ACTUARIES' REPORTS AND REQUIREMENTS APPLICABLE TO SUCH ABSTRACTS

PART I

REGULATIONS

1. Abstracts and Statements must be so arranged that the numbers and letters of the paragraphs correspond with those of the paragraphs of Part II of this Schedule.

2. In showing the proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums, in accordance with the requirements of paragraph (4) of Part II of this Schedule, no credit is to be taken for any adjustments made in order to secure that no policy is treated as an asset.

3. (1) The average rate of interest yielded in any year by the assets constituting a life assurance fund shall, for the purposes of paragraph (5) of Part II of this Schedule, be calculated by dividing the interest of the year by the mean fund of the year; and for the purposes of any such calculation the interest of the year shall be taken to be the whole of the interest credited to the life assurance fund during the year after deduction of income tax charged thereon (any refund of income tax in respect of expenses of management made during the year being taken into account), and the mean fund of the year shall be ascertained by adding a sum equal to one-half of the amount of the life assurance fund at the beginning of the year to a sum equal to one-half of that fund at the end of the year, and deducting from the aggregate of those two sums an amount equal to one-half of the interest of the year.

(2) For the purposes of the calculation aforesaid either—

(a) all profits and income arising during the year from sums invested in reversions shall be included in the interest credited to the life assurance fund during the year; or

(b) such portion of the life assurance fund as is invested in the purchase of reversions, and the profits and income arising therefrom, shall be excluded from the calculation; but in that case a statement must be added to the information required under the said paragraph (5), showing, in respect of the portion of the fund so excluded as aforesaid, the average rate of annual profit and income for which credit has been taken during the three years last preceding the valuation date, and explaining the manner in which the said average rate has been calculated.

(3) The information given in accordance with the requirements of the said paragraph (5) shall show clearly by which of the methods hereinbefore in this regulation mentioned the sums invested in reversions and the profits and income arising therefrom have been dealt with.

4. Every abstract prepared in accordance with the requirements of Part II of this Schedule shall be signed by an actuary and shall contain a certificate by him to the effect that he has satisfied himself as to the accuracy of the valuations made for the purposes thereof and of the valuation data;

Provided that in the case of an abstract prepared on behalf of an insurer, if the actuary who signs the abstract is not a permanent officer of the insurer, the certificate as to the accuracy of the valuation data shall be given and signed by the principal officer of the insurer and the actuary shall include in the abstract a statement signed by him showing what precautions he has taken to ensure the accuracy of the data.

5. For the purposes of this Schedule, the following expressions have the meanings hereby respectively assigned to them, namely:—

" extra premium " means a charge for any risk not provided for in the minimum contract premium;

" inter-valuation period " means, as respects any valuation, the period to the valuation date of that valuation from the valuation date of the last preceding valuation in connexion with which an abstract was prepared under this Act or, in a case where no such valuation has been made in respect of the class of business in question, from the date on which the insurer began to carry on that class of business;

" maturity date " means the fixed date on which any benefits will become payable either absolutely or contingently;

" net premiums " means as respects any valuation the premium taken credit for in the valuation;

" premium term " means the period during which premiums are payable ;

" valuation date " as respects any valuation means the date as at which the valuation is made.

PART II

REQUIREMENTS APPLICABLE TO AN ABSTRACT IN RESPECT OF LIFE ASSURANCE BUSINESS

The following tabular statement shall be annexed to every abstract prepared in accordance with (he requirements ut this Pan of ihJs Schedule, namely :—

- (a) a Consolidated Revenue Account, in Form F annexed to this Part of this Schedule, for the inter-valuation period (except that it shall not be necessary [o prepare such an account in respect of any class of business so long as the insurer deposits annually with the Controller an abstract in respect of that class of business); and
- (b) a Summary and Valuation in Form G annexed to this Part of this Schedule of the policies included at the valuation date in the class of business to which the abstract relates ; and
- (c) a Valuation Balance Sheet in Form H annexed to this Part of this Schedule; and
- (d) a statement in Form DDD as set forth in Part II of the Third Schedule of the additions to and deductions from the number of policies and the sums insured thereunder tor each claim of life assurance ; and
- (e) a statement in Form DDDD as set forth in Part II of the Third Schedule of particulars of policies, forfeited or lapsed under each class of life assurance ;

and every such abstract shall show—

- (1) the valuation date ;
- (2) the general principles and full details of the methods adopted in the valuation of each of the various classes of assurances and annuities shown in the said Form Ci, including statements on the following points :--
 - (a) whether the principles were determined by the instruments constituting the insurer or by its regulations or by-laws or how otherwise;
 - (b) the method by which the net premiums have been arrived at and how the ages of entry, premium terms and maturity dates have been treated for the purposes of the valuation ;
 - (c) the methods by which the valuation age, period from the valuation date to the maturity date, and the future premium terms, have been treated for the purpose of the valuation ;
 - (d) the rate of bonus taken into account where by the method of valuation definite provision is made for the maintenance of a specific rate of bonus ;
- (e) the method of allowing for—
 - (i) the incidence of the premium income; and
 - (ii) premiums payable otherwise than annually ;
- (f) the methods by which provision has been made for the following matters, namely :—
 - (i) the immediate payment of claims ;
 - (ii) future expenses and profits in the case of limited payment and paid-up policies;
 - (iii) the reserve in respect of lapsed policies not included in the valuation, but under which a liability exists or may arise ; and whether any reserves have been made for the matters aforesaid ;
- (g) whether under the valuation method adopted any policy would be treated as an asset, and, if so, what steps, if any, have been taken to eliminate such assets ;
- (h) a statement of the manner in which policies on under-average lives and policies subject to premiums which include a charge tor climatic, military or other extra risks have been dealt with ; and

- (i) the rates of exchange at which liabilities in respect of policies issued in foreign currencies have been converted into rupees and what provision has been made for possible increase of liability arising from future variations in the rates of exchange;
- (3) the table of mortality used, the rate of interest and the taxation basis assumed, in the valuation ;
- (4) the proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums separately specified in respect of assurances with immediate profits, with deferred profits, with profits under discounted bonus systems, and without profits ;
- (4A) the proportion which that part of the total annual premiums reserved as provision for future renewal expenses bears to the total annual premiums ;
- (5) the average rates of interest yielded by the assets, whether invested or uninvested constituting the life assurance fund for each of the years covered by the valuation date ;
- (6) the basis adopted in the distribution of profits as between the insurer and policy holders, and whether such basis was determined by the instruments constituting the insurer, or by its regulations or by-laws or how otherwise ;
- (7) the general principles adopted in the distribution of profits among policy holders, including statements on the following points :—
 - (a) whether the principles were determined by the instruments constituting the insurer, or by its regulations or by-laws, or how otherwise ;
 - (b) the number of years' premiums to be paid, the period to elapse and other conditions to be fulfilled before a bonus is allotted;
 - (c) whether the bonus is allotted in respect of each year's premium paid, or in respect of each completed calendar year or year of assurance or how otherwise; and
 - (d) whether the bonus vests immediately on allocation, or if not, the conditions of vesting;
- (8) (i) the total amount of surplus arising during the inter-valuation period, including surplus paid away and sums transferred to reserve funds or other accounts during that period, and the amount brought forward from the preceding valuation (to be stated separately) and the allocation of such surplus—
 - (a) to interim bonus paid ;
 - (b) among policy holders with immediate participation giving the number of the policies which participated and the sums assured thereunder (excluding bonuses);
 - (c) among policy holders with deferred participation, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses);
 - (d) among policy holders in the discounted bonus class, giving the number of policies which participated and the sums assured thereunder (excluding bonuses);
 - (e) to the insurer or, in the case of an insurance company, among shareholders or to shareholders' accounts (any such sums passed through the accounts during the inter-valuation period to be separately stated);
 - (f) to every reserve fund or other fund or account (any such sums passed through the accounts during the inter-valuation period to be separately stated);
 - (g) as carried forward unapproved ;
 - (h) specimens of bonuses allotted as at the valuation date to policies for one thousand rupees—
- (a) for the whole term of life effected at the respective ages of 20, 30 and 40, and having been in force respectively for five years, ten years and upwards at intervals of ten years , and

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(b) for endowment assurances effected at the respective ages of 20, 30 and 40, for endowment terms of fifteen, twenty and thirty years, and having been in force respectively for five years, ten years and upwards at intervals of ten years;

together with the amounts apportioned under the various manners in which the bonus is receivable;

(9) a statement in Form I annexed to this Part of this Schedule of specimen policy reserve values held or required to be held according to the methods adopted in the valuation, and specimen minimum surrender values in respect of whole life assurance policies for Rs. 1,000 with premiums payable throughout life effected at the respective ages of 20, 30, 40 and 50, and immediately on payment of the first, second, third, fourth, sixth, seventh, eighth, ninth, tenth, fifteenth and twentieth annual premium, with similar specimen policy reserve values and specimen surrender values in respect of whole life assurance policies subject to premiums payable for 20 years and of endowment assurance policies maturing at age of 55 ;

(10) a statement showing how the liability under any disability clause in a policy has been determined in the valuation with full information of the tables of sickness or accident rates used for the purpose.

FORM F

Consolidated Revenue Account of. for Years Commencing and
 Ending

	Business within Ceylon	Total		Business within Ceylon	Total
	Rs.	Rs.		Rs.	Rs.
Claims under Policies (including provision for claims due or intimated)			Balance of Life Assurance Fund at the beginning of the period		
<i>less</i> Reinsurances —			Premiums, <i>less</i> Reinsurances		
By death			Consideration for Annuities Granted, <i>less</i> Reinsurances		
By maturity			Interest, Dividends and Rents Rs.		
Annuities, <i>less</i> Reinsurances			<i>Less</i> —Income tax thereon (b)		
Surrenders (including Surrender of Bonuses). <i>less</i> Reinsurances			Rs. —		
Bonuses in Cash, <i>less</i> Reinsurances			Registration Fee		
Bonuses in reduction of Premiums <i>less</i> Reinsurances			Other Income (to be specified)		
Commission (<i>less</i> at on Reinsurances)			Deficit transferred to Profit and Loss Account		
Expenses of Management (n) Agents' and Canvassers' allowance			Transferred from Appropriation Account		
Salaries, Ac, (other than 10 Agents and Canvassers)					
Travelling expenses					
Directors' fees					
Auditors' fees					
Medical fees					
Law charges					
Advertising					
Printing and Stationery					
Other expenses of management (accounts to be specified)					
Other payments (accounts to be specified)					
Rents for offices belonging to and occupied by the company					
Rents of other offices occupied by the insurer					
Sri Lanka Taxes					
Foreign Taxes					
Bad Debts					
Other expenditure (to be specified)					
Surplus transferred to Profit and Loss Account					
Balance to Life Assurance Fund at end of the period as shown in the Balance Sheet					
Rs			Rs		

(a) If any sum has been deducted from this item and entered on the assets side of the balance sheet the amount so deducted must be shown separately.

(b) Sri Lanka and Foreign income tax on interest, dividends and rents must be shown under this heading, less any rebates of income tax recovered from the revenue authorities in respect of expenses of management. The separate heading on the other side of the account is for Sri Lanka and Foreign taxes, other than those shown under this item.

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FORM G

Summary and Valuation of the Policies of. as at. 19

	Particulars of the Policies for Valuation					Valuation			
	Number of Policies	Sum Insured	Amount	Policy Value	Actual Cash Value	Office Reserve	Policy Reserve	Unpaid Claims	Unpaid Claims
DIVISION I									
ASSURANCES									
Group A—									
With immediate participation in profits									
For whole term of life . . .									
Other classes (to be specified) . .									
Extra premiums . . .									
Total Assurances . . .									
Deduct Reinsurances . . .									
Net Assurances . . .									
Group B—									
With deferred participation in profits									
For whole term of life . . .									
Other classes (to be specified) . .									
Extra premiums . . .									
Total Assurances . . .									
Deduct—Reinsurances . . .									
Net Assurances . . .									
Group C—									
Under discounted bonus systems . .									
For whole term of life . . .									
Other classes (to be specified) . .									
Extra premiums . . .									
Total Assurances . . .									
Deduct -Reinsurances . . .									
Net Assurances . . .									
Total Assurances with profits . .									
Group D—									
Without participation in profits . .									
For whole term of life . . .									
Other classes (to be specified) . .									
Extra premiums . . .									
Total Assurances . . .									
Deduct—Reinsurances . . .									
Net Assurances . . .									
Total Assurances without profits . .									
Total of the Assurances shown in all groups . . .									
Deduct—Reinsurances . . .									
Net amount of Assurances Adjustments, if any (to be separately specified) . .									
DIVISION II									
Annuities on Lives . . .									
Immediate Annuities . . .									
Deferred Annuities with return of premiums . . .									
Deferred Annuities without return of premiums . . .									
Other classes (to be specified) . .									
Total Annuities . . .									
Deduct- Reinsurances . . .									
Net Annuities . . .									
Total of the results (after deduction of Reinsurances)									

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FORM G (Conid.)

WTES

1. Items in this summary are to be stated to the nearest rupee.
2. No policy of assurance upon the lives of a group of persons, whereby sums assured are payable in respect of the several persons included in the group, is to be included in Groups A, B, C or D of this Form: any such policies must be shown in a separate Group which must be added to the Form.
3. If policies without participation in profits but with a guaranteed rate of bonus are issued they must be separately specified in Group D of this Form.
4. Separate forms must be prepared in respect of classes of policies valued by different tables of mortality or at different rates of interest or involving the valuation of net premiums on different bases.
5. In cases where separate valuations of any portion of the business are required under local laws in places outside Sri Lanka and reserves based on such valuations are deposited in such places, a statement must be furnished in respect of the business so valued in each such place showing the total number of policies, the total sums assured and bonuses, the total office yearly premiums, and the total net liability on the bases as to mortality and interest adopted in each such place with a statement as to such bases respectively.
6. Office and net premiums and the values thereof must be shown after deduction of abatements made by the application of bonus.

FORM H

Valuation Balance Sheet of, _____ as at _____ 19__

	Rs.			Rs.
Net liability under business as shown in the Summary and Valuation of Policies		Balance of Life Assurance Fund as shown in the Balance Sheet		
Surplus, if any		Deficiency, if any		

Note.—If the proportion of surplus allocated to the insurer, or in the case of an insurance company to shareholders, is not uniform in respect of all classes of insurances, the surplus must be shown separately for the classes to which the different proportions relate.

FORM I

Specimen Policy Reserve Values and Minimum Surrender Values under a Policy for Rs. 1,000

Number of premiums paid	Age at entry 20		Age at entry 30		Age at entry 40		Age at entry 50	
	Reserve value	Minimum surrender value	Reserve value	Minimum surrender value	Reserve value	Minimum surrender value	Reserve value	Minimum surrender value
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
15								
20								

Note.— Items in this Form to be stated to the nearest rupee.

FIFTH SCHEDULE

REGULATIONS FOR PREPARING STATEMENTS OF BUSINESS IN FORCE AND
REQUIREMENTS APPLICABLE TO SUCH STATEMENTS

PART I

REGULATIONS

1. Statements prepared under this Schedule must be prepared, so far as practicable, in tabular form and must be identified by numbers and letters corresponding with those of the paragraphs of Part II of this Schedule.
2. Except with respect to rates of premium or contribution, items in statements prepared under this Schedule are to be shown to the nearest rupee.
3. Extra premium shown in the forms of Summary and Valuation prepared under the Fourth Schedule must not be included in statements prepared under this Schedule.
4. Every statement prepared under this Schedule shall be signed by the actuary making the investigation in connexion with which it is prepared.
5. For the purposes of this Schedule the following expressions have the meanings hereby respectively assigned to them, namely;—
 - (a) " annual loading " means the provision made for future expenses and profits;
 - (b) " extra premiums " means a charge for any risk not provided for in the minimum contract premium ;
 - (c) " net premiums " means the premiums taken credit for in the valuation in connexion with which any statement is prepared ; and
 - (d) " valuation date " means as respects any valuation the date as at which the valuation is made.

PART II

REQUIREMENTS FOR STATEMENTS APPLICABLE TO LIFE ASSURANCE BUSINESS

The statements required to be prepared under this Part of this Schedule are as follows :—

1. Where new life assurance business is currently transacted in Sri Lanka, statements, separately prepared in respect of policies with and without participation in profits, showing—
 - (a) as respects policies for the whole term of life, the rates of office premiums charged, in accordance with the published tables in use, for new policies giving the rates for decennial ages at entry from 20 to 70 inclusive; and
 - (b) as respects endowment assurance policies, the rates of office premiums charged, in accordance with the published tables in use, for new policies with original terms of ten, fifteen, twenty, thirty and forty years, giving the rates for decennial ages at entry from 20 to 40 inclusive, but excluding policies under which the age at maturity exceeds 70.
2. Statements, separately prepared in respect of policies with immediate profits, with deferred profits, with profits under discounted bonus systems and without profits, showing in quinquennial groups—
 - (a) as respects policies for the whole term of life—
 - (i) the total amount assured (specifying sums assured and reversionary bonuses separately), grouped according to ages attained ;
 - (ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable throughout life, and of the corresponding net premiums, grouped according to ages attained; and
 - (iii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable for a limited number of years, and either, the corresponding net premiums grouped in accordance with the grouping adopted for the purposes of the valuation, or, the annual loading reserved for the remaining duration of the policies, grouped according to ages attained;

- (b) as respects endowment assurance policies—
 - (i) the total amount assured (specifying sums assured and reversionary bonuses separately), grouped in accordance with the grouping adopted for the purposes of the valuation; and
 - (ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable, and of the corresponding net premiums grouped in accordance with the grouping adopted for the purposes of the valuation :

Provided that—

- (a) as respects endowment assurance policies which will reach maturity in less than five years, the information required by sub-paragraph (b) (i) of this paragraph must be given for each year instead of in quinquennial groups; and
 - (b) where the office premiums payable under policies for the whole term of life for a limited number of years, or the office premiums payable under endowment assurance policies, or the corresponding net premiums, are grouped for the purposes of the valuation otherwise than according to the number of years payments remaining to be made, or, where the sums assured under endowment assurance policies are grouped for the purposes of the valuation otherwise than according to the years in which the policies will mature for payment or in which they are assumed to mature if earlier than the true year, then, in any such case the valuation constants and an explanation of the method by which they are calculated must be given for each group, and in the case of the sums assured under endowment assurance policies a statement must also be given of the amount assured maturing for payment in each of the two years following the valuation date.
3. Statements as respects any policies in force under which premiums cease to be payable, whether permanently or temporarily, during disability arising from sickness or accident, showing the total amount of the office premiums payable.
4. Policies under which there is a waiver of premiums during disability must be shown as a separate class.
5. Statements as respects immediate annuities on single lives for the whole terms of life, separately prepared in respect of annuities on male and female lives, showing in quinquennial age groups the total amount of such annuities.
6. Statements as respects deferred annuities, separately prepared in respect of annuities on male and female lives, showing the specimen reserve values for annuities of one hundred rupees which will be produced on maturity on the basis of valuation adopted at ages, in the case of male lives, 60 and 65 and in the case of female lives, 55 and 60; the said statements must show the specimen reserve values which will be produced under the table of annual premiums in use for new policies where new business is currently transacted in Sri Lanka and if under any other table of annual premiums in use for any other deferred annuity policies in force smaller reserve values will be produced the like specimens of these must also be given.
7. Statements as respects any policies of assurance upon the lives of a group of persons, whereby sums assured are payable in respect of the several persons included in the group, showing the total claims paid since the date as at which the last statements were prepared under this Part of this Schedule or, where no such statements have been prepared, since the date on which the insurer began to carry on the class of business to which the statements relate or the date of the last valuation of the insurer's liabilities in respect of that class of business, and the reserve for unexpired risks and outstanding claims.

SIXTH SCHEDULE

[Section 64.]

REGULATION AS TO THE VALUATION OF THE LIABILITIES OF AN INSURER IN LIQUIDATION

The liabilities of an insurer in respect of current contracts effected in the course of life assurance business including annuity business shall be calculated by the method and upon the basis to be determined by an actuary approved by the District Court or Winding-up Tribunal, and the actuary so approved shall, in determining as aforesaid, take into account—

- (a) the purpose for which such valuation is to be made,
- (b) the rate of interest, taxation, and the rates of mortality and sickness to be used in valuation, and
- (c) any special directions which may be given by the District Court or Winding-up Tribunal.

The liabilities of an insurer in respect of current policies of general business shall be such portion of the last premium paid as is proportionate to the unexpired portion of the policy in respect of which the premium was paid.

[Section 3.]

SEVENTH SCHEDULE

REGULATIONS APPLICABLE TO UNDERWRITING MEMBERS OF LLOYDS

1. The Committee of Lloyds shall appoint a person resident in Sri Lanka as the chief representative of underwriting members of Lloyds (hereinafter referred to as the "chief representative") and shall notify the Controller the name of the person so appointed.

2. The person appointed as the chief representative under regulation 1 shall, on payment of the deposit or deposits referred to in regulation 3, be deemed to be registered as a person authorized to carry on Sri Lanka business on behalf of any member, or all members, of Lloyds:

Provided that nothing in this regulation shall be construed to prevent any member of Lloyds from carrying on Sri Lanka business through any other representative or agent so long as the registration of the chief representative is in force.

3. The chief representative shall keep deposited with the Deputy Secretary to the Treasury, for and on behalf of the Government of Sri Lanka a sum of fifty thousand rupees in respect of each class of Sri Lanka business proposed to be carried on by any member, or all members, of Lloyds :

Provided that the maximum amount of the deposit shall be two hundred thousand rupees.

4. The chief representative shall file with the Controller—

- (a) a copy of each of the Acts of the British Parliament defining or regulating the functions of Lloyds Underwriters,
- (b) a copy of the annual list of members of Lloyds Underwriters and all information relating to the constitution of the Committee of Lloyds, and
- (c) the names and addresses of one or more persons resident in Sri Lanka duly authorized, except in respect of cases arising from marine insurance cover, to accept, on behalf of underwriting members of Lloyds, service of process or other notice required by law to be served on them, together with a power of attorney granted to such person or persons.

5. The chief representative shall forward to the Controller—

- (a) four copies of the returns and accounts submitted by Lloyds Underwriters to, and published each year by, the British Board of Trade, one copy being authenticated by the Chairman of Lloyds Underwriters and the appropriate Department of the British Government,
- (b) a declaration signed by the Chairman of Lloyds Underwriters and by the appropriate Department of the British Government, certifying that all Lloyds Underwriters have complied with the requirements for the time being imposed upon them by the provisions of the First Schedule to the Insurance Companies Act, 1958, of Great Britain,
- (c) such returns, abstracts and additional information as the Controller may from time to time call for relating to the conduct of the Sri Lanka business of underwriting members of Lloyds.

6. In these regulations and in section 3 (3) of this Act, "Sri Lanka business" means any insurance business, other than life assurance business, transacted in Sri Lanka and such business shall be deemed to be transacted in Sri Lanka wherever it may be so transacted, if the relevant contract of insurance is in respect of persons resident in Sri Lanka or in respect of property situated in Sri Lanka or any vessel or aircraft registered in Sri Lanka. If any question arises as to whether any business is business transacted in Sri Lanka or not, the Controller shall decide the question and his decision shall be final.

CHAPTER 109

COUNCIL OF LEGAL EDUCATION

Ordinance
No. 2 of 1900.
Law
No. 6 of 1974.

AN ORDINANCE FOR INCORPORATING THE COUNCIL OF LEGAL EDUCATION.

[21st March, 1900.]

Short title. **1.** This Ordinance may be cited as the Council of Legal Education Ordinance.

hold or have held judicial office or who are or have been engaged in the teaching of law or in legal research or who have secured academic distinction in law or made contributions to legal knowledge.

The Council of Legal Education incorporated.

2. The Chief Justice and the Puisne Justices of the Supreme Court ; the Attorney-General and the Solicitor-General ; and Frederick Dornhorst, Henry Lorenz Wendt, Thomas Edward de Sampayo, Walter Pereira, James Arthur van Langenberg, advocates ; Frederick John de Saram, John William Vanderstraaten, proctors of the Supreme Court ; and Peter Daniel Anthonisz Mack, proctor of the District Court of Colombo, being the present Council of Legal Education, and their respective successors, appointed in manner provided in the Second Schedule of the Courts Ordinance*, are hereby associated together, and shall for ever hereafter be and be called a body corporate in deed and in law by the name and style of " The Incorporated Council of Legal Education ", under which name the said council may sue and be sued.

(2) Every appointed member shall, unless he earlier vacates his office by death or resignation or removal, hold office for a period of three years from the date of his appointment, and shall be eligible for reappointment:

Provided that a member appointed by the Minister to fill a vacancy in the office of an appointed member shall hold office for the unexpired portion of the term of office of the member whom he succeeds.

(3) Any appointed member may resign his office by letter addressed to the Minister.

Constitution of Incorporated Council of Legal Education. [§2, Law 6 of 1974.]

2A. (1) Notwithstanding anything to the contrary in section 2, the Incorporated Council of Legal Education shall, with effect from such date as may be fixed by the Minister by Notification published in the Gazette, consist of—

(4) Where any appointed member becomes, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may, having regard to the provisions of paragraph (d) of subsection (1), appoint a fit and proper person to act in place of that member.

(5) The quorum for a meeting of the Council shall be five members of the Council.

(6) The Council may act notwithstanding any vacancy among its members or any defect in the appointment of any member.

- (a) the Chief Justice, who shall be the Chairman of the Council ;
- (b) the Secretary to the Ministry charged with the subject of Justice ;
- (c) the Attorney-General; and
- (d) four other persons appointed by the Minister (hereinafter referred to as "appointed members"), from among persons of standing in the legal profession or persons who

3. The Incorporated Council of Legal Education shall and may have and use a common seal, and the said seal may from time to time break, change, alter, and make anew as to the said Council may seem fit.

* Repealed by Law No 44 of 1973. itself repealed by Law No 19 of 1977.
+Effective from 25th March 1974.— See Gazette No. 104/2 of 1974.03.25.

Property and effects of Council in whom vested.

4. All moneys, goods, chattels, and effects whatsoever, and all securities for money or obligatory instruments and evidences or muniments of title and all other effects, and all rights and claims whether belonging to the Council of Legal Education at the date of the passing of this Ordinance or acquired by the Incorporated Council of Legal Education after the passing of this Ordinance, shall be vested in the said Council.

Power to acquire land.

5. The Incorporated Council of Legal Education shall have perpetual succession, and shall at all times hereafter be able and capable in law to purchase, acquire, hold, and enjoy in perpetuity or for any lesser term any property, movable or immovable, of what nature or kind soever, and to invest the funds of the Council in promissory notes, debentures, stock or other securities of the Government of Sri Lanka or in any Government Savings Bank or the National Savings Bank, or in any mortgage of movable or immovable property in Sri Lanka, and also in the purchase or acquisition of all manner of goods, chattels, and things whatever which they may think proper or requisite for the purposes of the said Council.

Power to erect buildings and to sell or mortgage property.

6. The Incorporated Council of Legal Education may erect or cause to be erected any buildings on any lands so purchased or acquired or held or enjoyed by them, and may also from time to time sell, grant, convey, demise, assign, exchange, and dispose of or mortgage any property for the time being vested in them.

Power to make by-laws. [§3, Law 6 of 1974.]

7. (1) It shall be lawful for the Incorporated Council of Legal Education, with the concurrence of the Minister, to make such by-laws, rules and orders as to it shall seem necessary for any of the following purposes :—

- (a) for convening the ordinary or any special meetings of the Council and fixing the number of ordinary meetings to be held each year, and the dates on which such meetings shall be held ;
- (b) for prescribing the manner in which the seal of the Council shall be affixed ;

(c) for prescribing the course of studies and examinations to be observed by such law students and the payments to be made therefor ;

(d) for the appointment of lecturers and examiners, and fixing the salary or fees to be paid to such lecturers and examiners respectively ;

(e) for fixing the minimum number of marks to be earned by candidates at the several examinations ;

(f) for the appointment and removal of such secretary, librarian, officers, clerks, and servants as the Council may deem useful or necessary ;

(g) and generally for carrying out the objects for which the Council is incorporated into full force and effect.

(2) Every by-law, rule or order made by the Council shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the by-law, rule or order, as the case may be.

(3) Every by-law, rule or order made by the Council shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any by-law, rule or order which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder. Notification of the date on which any by-law, rule or order made by the Council is so deemed to be rescinded shall be published in the Gazette.

*7A. The Minister may, from time to time, give to the Incorporated Council of Legal Education directions in writing on matters of general policy pertaining to the performance of the duties and the exercise of the powers of the Council, and the Council shall give effect to such directions. Powers of Minister in relation to the Council. [4, Law 6 of 1974.]

* Sections 8, 9, 10 and 11 are repealed by Law No. 6 of 1974.

CHAPTER 216

CONTROL OF PRICES

Acts
Nos. 29 of 1950,
31 of 1952,
44 of 1957,
23 of 1962,
9 of 1964,
16 of 1966,

Laws
Nos. 21 of 1975,
43 of 1975,

Act
No. 33 of 1979.

AN ACT TO PROVIDE FOR THE REGULATION AND CONTROL OF THE PRICE OF COMMODITIES AND TO TAKE POWER TO REQUISITION FOR CERTAIN PURPOSES ARTICLES OTHER THAN ARTICLES OF FOOD OR DRINK AND TO PROVIDE FOR THE PAYMENT OF COMPENSATION IN RESPECT OF ANY ARTICLE SO REQUISITIONED.

[9th December. 1950.]

Short title.

1. This Act may be cited as the Control of Prices Act.

discharge of his functions, be subject to the general direction and control of the Controller.

Appointment of officers and servants.

2. (1) There may be appointed, by name or by office, for the purposes of this Act—

- (a) a Controller of Prices (Food), and such number of Deputy and Assistant Controllers of Prices (Food) as may be necessary;
- (b) a Controller of Prices (Miscellaneous Articles) and such number of Deputy and Assistant Controllers of Prices (Miscellaneous Articles) as may be necessary; and
- (c) such number of other officers as may be necessary to assist the aforesaid officers.

(2) Every Deputy or Assistant Controller may, subject to the general direction and control of the Controller, within the area of his appointment exercise, perform or discharge all or any of the powers, duties or functions vested in, imposed upon, or assigned to, the Controller by or under this Act.

***5.** (1) The Controller may, by general directions issued to any class of persons or by special directions issued to any particular person, prescribe, in relation to that class or that person, as the case may be—

Power to issue general or special directions.

- (a) the maximum quantity of any price-controlled article to be sold on any one day;
- (b) the times during which, and the places at which, such article may be sold; and
- (c) any other conditions as to the sale of that article,

(2) The act of appointment of any Deputy or Assistant Controller shall specify whether he is appointed as such for the whole of Sri Lanka or for any part thereof (the area for which such Deputy or Assistant Controller is appointed being hereinafter referred to as the "area of his appointment").

and so long as such directions are in force, every person to whom such directions apply shall sell or dispose of that article in accordance with such directions and not otherwise.

Powers and duties of officers.

3. (1) Every Deputy or Assistant Controller shall, in the exercise of his powers, the performance of his duties or the

(2) Every general direction issued by the Controller under subsection (1) shall be

• Section 4 is repealed by Law No. 43 of 1975—See also section 20 (7) of the National Prices Commission Law.

published by him in the Gazette and in at least one newspaper circulating in Sri Lanka.

(3) Every special direction issued to any person by the Controller under subsection (1) shall be in writing and shall be served on the person to whom it is issued; and any such direction shall be deemed to be served on such person if it is sent by post addressed to him at his place of business. In proving such service by post, it shall be sufficient to prove that the document containing the direction was duly addressed and posted.

Requisition of articles other than articles of food or drink. [§3, 9 of 1964.]

5A. (1) The Controller may, if it appears to him to be necessary or expedient so to do for the purpose of maintaining, controlling and regulating the supply of any article, other than an article of food or drink, in order to secure its sufficiency or its equitable distribution or its availability at a fair price, by special or general Order requisition any quantity of such article and give such directions as appear to him to be necessary or expedient in connexion with the requisition thereof.

(2) Where a special Order is made under subsection (1), the Controller shall—

- (i) specify the name and address of the person in respect of whom such Order is made and the quantity of the article which is to be requisitioned, and
- (ii) direct such person or any other person on his behalf, who is in possession or has control of that article at any place of any description specified in the Order, to deliver to such officer as may be authorized for the purpose in the Order at such place the quantity of that article requisitioned by the Order if required to do so by such officer.

(3) Where a general Order is made by the Controller under subsection (1), the Controller shall—

- (1) declare the quantity of the article, which is to be requisitioned from persons of any specified class or

description, to be a specified proportion of the total quantity of such article in the possession or control of each such person, and

- (ii) direct that every such person, or any other person on his behalf, who is in possession or has control of that article at any place of any description specified in the Order, to deliver to such officer as may be authorized for the purpose in the Order at such place the quantity of that article requisitioned by the Order if required so to do by such officer.

(4) Where the Controller requisitions any quantity of any article referred to in subsection (1), he may use or deal with, or authorize the use or dealing with, that quantity of that article to such extent and in such manner as he thinks expedient for any of the purposes specified in subsection (1), and may hold or sell or otherwise dispose of that quantity as if he were the owner thereof and as if that quantity were free from any mortgage, pledge, lien or other charge.

(5) The Controller, if it appears to him to be necessary for the effectual exercise of the powers conferred by subsection (1) may, by Order made applicable either to the whole of Sri Lanka or to any specified area thereof—

- (a) direct that no person, who, at the time when the Order takes effect, has in his possession or under his control at any premises in any area to which that Order applies any quantity of any article as may be described in the Order, shall remove that quantity or cause or permit it to be removed until the removal of that quantity therefrom is permitted by such officer or person as may be specified in the Order; or
- (b) require the owner or occupier of any premises in any such area to send to such officer or person as may be specified in the Order before such date as may be specified therein, a written declaration stating whether or not, on such date as may be

specified in the Order, any quantity of any such article was, is, or will be on the premises, and, if so, the quantity of such article which was, is or will be on the premises on that day, according as the Order may direct.

(6) For the purpose of exercising any of the powers conferred on the Controller by the preceding provisions of this section, the Controller or any officer authorized specially or generally in that behalf by the Controller, may at any time between sunrise and sunset enter and inspect any premises or place in which any article requisitioned or to be requisitioned by any special or general Order is kept or alleged to be kept and may make such examination therein as he may deem necessary.

In this subsection "examination" includes the weighing or measuring of any stocks of such article.

(7) Any officer of police or any other officer of Government who is requested so to do by the Controller or any officer authorized specially or generally in that behalf by the Controller shall aid and assist him in the exercise of his powers under the preceding provisions of this section.

Compensation in respect of articles requisitioned under section 5A. [§3, 9 of 1964.]

5B. Where any quantity of any article has been requisitioned under the provisions of section 5A, compensation assessed in accordance with regulations which shall be made in that behalf under this Act shall be paid to the owner in respect of the requisition of that quantity.

Regulations.

6. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act;

(2) In particular, and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters:—

(a) the returns and information to be furnished for the purposes of this Act;

• Paragraph (b) is repealed by Law No. 43 of 1975.

*(c) the power to summon and examine witnesses or informants, to administer oaths, to require the production of, or to impound, documents, and to search and inspect premises;

(d) the prohibition, regulation or control of the storage, removal or disposal of any articles, and the prevention of the hoarding of any articles, during the operation of any Order made or deemed to be made under the National Prices Commission Law fixing the prices of such articles; [§3, Law 43 of 1975-]

(dd) the removal, storage or disposal of any articles which are requisitioned by Orders made under section 5A (1), and the maintenance of records and registers, and the issue of receipts, by the Controller or persons acting under the authority of the Controller in respect of articles so requisitioned; [§4,9 of 1964.]

(ddd) the inspection of records and registers maintained by the Controller or persons acting under the authority of the Controller in respect of articles requisitioned by Orders made under section 5A (1) and the audit of accounts kept by the Controller or such person in respect of articles so requisitioned ; [§4,9 of 1964.]

(e) the seizure of articles in respect of which or in relation to which contraventions of any Order made or deemed to be made under the National Prices Commission Law fixing the prices of such articles, or of any regulation made under this Act have been or are suspected to have been committed, and the custody, sale and disposal of articles so seized or ordered by any court to be forfeited ; [§3, Law 43 of 1975-]

(ee) any matter in respect of which regulations are authorized or required by this Act to be made; [§4,9 of 1964.]

(f) all matters incidental to or connected with the establishment of the Price [§2,33 of 1979-]

Control Reward Fund and the manner in which it is to be administered;

[§3. Law 43 of 1975.]

(g) any other mailer incidental or consequential to any of the matters hereinbefore mentioned, or which may be necessary for the purpose of securing compliance with any Order made or deemed to be made under the National Prices Commission Law fixing the prices of any article.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation upon such publication.

(4) Every regulation made by the Minister shall be brought before Parliament within a period of one month from the date of the publication of that regulation under subsection (3), or, if no meeting is held within that period, at the first meeting after the expiry of that period, by a motion that such regulation shall be approved.

(5) Any regulation which Parliament refuses to approve shall be deemed to be rescinded but without prejudice to the validity of anything previously done thereunder or to the making of any new regulation. The date on which such regulation shall so be deemed to be rescinded shall be the date on which Parliament refuses to approve the regulation.

(6) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

(7) Any regulation made by the Minister shall, when approved by Parliament, be as valid and effectual as if it were herein enacted. Notification of such approval shall be published in the Gazette.

Application of section 7 of the Interpretation Ordinance.

7. The provisions of section 7 of the Interpretation Ordinance shall apply in relation to the power to make regulations under this Act in like manner as they apply in the case of the power to make rules or issue Orders under any other enactment.

Offences and penalties. [§4. Law 43 of 1975.]

8. (1) Every person who acts in contravention of any Order or regulation made or deemed to be made under this Act or of any general or special direction given

under section 5 of this Act, or contravenes any Order made or deemed to be made under the National Prices Commission Law fixing the price of an article, or contravenes or fails to comply with any direction given or requirement imposed under section 5A of this Act or resists or obstructs any other person in the exercise of his powers under that section, shall be guilty of an offence.

(2) If-

(a) any person, carrying on business at any premises situated in any place or area in which an Order made or deemed to be made under the National Prices Commission Law fixing the price of an article is in operation, has in his possession for purposes of trade a stock of such article; and

(b) that person, or any person employed by him in the course of the business, when asked at those premises by any other person (hereinafter referred to as the * buyer ") to sell any quantity of such article, or when asked whether he or his employer has such article for sale—

(i) refuses to sell that quantity of the article or denies that he or his employer has the article, or uses any words, or gives any other indication, calculated to lead the buyer to suppose that he or his employer will not or cannot sell the article or has not got the article; or

(ii) offers to sell the article subject to a condition requiring the buying of any other article (whether or not an Order made or deemed to be made under section 20 of the National Prices Commission Law is in force in respect of such other article), or the making of any payment in respect of any service, or subject to any other condition, except a condition that the buyer shall pay the price forthwith.

the person carrying on the business or where such person is out of Sri Lanka, the person for the time being acting as manager or having control of the business shall be guilty of an offence, unless he proves that the act or default in respect of which he is charged was committed by some other person without his knowledge and that he had exercised all due diligence to prevent the commission of the act or default; and any person employed by him shall, where the act or default was committed by that person, also be guilty of such offence.

(3) In any prosecution for an offence under subsection (2), it shall be a sufficient defence for the accused to prove—

- (a) that on the occasion in question he supplied a reasonable quantity of the article, or had not a sufficient quantity in his custody or under his control to supply the quantity demanded; or
- (b) that he carried on the business in the article as a wholesale trader only, and that the sale of the quantity demanded by the buyer would have been contrary to the normal practice of a wholesale business; or
- (c) that the sale of the article on the occasion in question would have been contrary to any general or special direction issued to him under section 5.

(4) For the purposes of subsections (2) and (3)—

- (a) in determining what is a reasonable quantity, regard shall be had to all the circumstances of the case, including the question whether the buyer was or was not carrying on business as a trader in the article demanded, either atone or with other goods; and
- (b) if any person carries on business of any class in connexion with which any article is sold or supplied, or if he has been in the habit of selling or

supplying that article, he shall be deemed usually to carry on business in that article.

(5) Where an Order under 'the Food Control Act is in operation for the allocation and rationing of supplies of any article in any place, nothing in subsection (2) shall be deemed to require or authorize any person carrying on business in that place to sell to any person any quantity of that article, otherwise than in accordance with any regulations for the time being in force under that Act relating to the sale and delivery of such article during the operation of that Order.

(5A) The provision in section 72 of the Penal Code that nothing is an offence which is done by any person who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be justified by law in doing it, shall not apply in the case of offences under this Act. [§2,44 of 1957-]

(6) Every person who commits an offence under this Act shall, on conviction after summary trial before a Magistrate—

- (a) (i) if it is the contravention of an Order made or deemed to be made under section 20 of the National Prices Commission Law, by selling an article above the maximum price fixed for that article by that Order, or of a regulation for the prevention of the hoarding of an article for which the maximum price is fixed by such an Order, be punished with rigorous imprisonment for a term not less than four weeks and not exceeding six months, and, in addition, with a fine not less than one thousand rupees and not exceeding seven thousand five hundred rupees, and [§3,33 of 1979-]
- (ii) if it is an offence other than that specified in the immediately preceding sub-paragraph (i), be liable to the aforesaid imprisonment or the aforesaid fine or to both such fine and such imprisonment; and [§2,44 of 1957-]

[§2,16 of 1966-]

(b) for a subsequent offence, committed after a conviction for the first offence, be punished with rigorous imprisonment for a term not less than three months and not exceeding two years and, in addition, with a fine not exceeding ten thousand rupees.

(7) The court which convicts any person of an offence under this Act may order the forfeiture of any article in respect of which the offence was committed.

[§4, Law 43 of 1975-]

(8) Where any person who is employed by any other person (such other person being hereinafter referred to as the "employer") to sell articles in the course of any business carried on by the employer at any premises, is, by reason of anything done or omitted to be done at those premises, convicted of the offence of contravening any provision of any Order made or deemed to be made under the National Prices Commission Law fixing the prices of the articles, or of a regulation made or deemed to be made under this Act, then the employer, or where the employer is out of Sri Lanka, the person for the time being acting as manager or having control of the business, shall also be guilty of that offence unless he proves to the satisfaction of the court that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

(9) In the case of an offence under this Act committed by a body of persons—

(a) where the body of persons is a body corporate, every director and officer of that body corporate shall be deemed to be guilty of that offence ; and

(b) where the body of persons is a firm, every partner of the firm shall be deemed to be guilty of that offence :

Provided that no such person shall be deemed to be guilty of an offence under this Act, if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

(10) Notwithstanding anything in the First Schedule to the Code of Criminal Procedure Act, every offence under this Act shall be a cognizable offence within the meaning of that Act.

(11) The Controller and every Deputy and Assistant Controller shall be deemed to be peace officers within the meaning of the Code of Criminal Procedure Act for the purpose of exercising any power conferred on peace officers by that Act.

8A. A court, before which an offender is convicted of an offence under this Act, may in respect of any fine imposed for such offence, direct that a sum not exceeding one-half of such fine or one-half of such amount as may be actually recovered from such offender, be paid to the Price Control Reward Fund established under this Act.

Court to direct payment of share of fine to Price Control Reward Fund. (§4. 33 of 1979.)

8B. (1) A Fund to be called the Price Control Reward Fund (hereinafter referred to in this section as " the fund ") is hereby established.

Price Control Reward Fund. §4. 33 of 1979.]

(2) There shall be paid into the fund—

(a) all sums directed to be paid thereto by a court or a Judge thereof under this Act or under any other written law, or by a Judge in his discretion. and

(6) such other payments as may be made In accordance with regulations made in that behalf.

(3) There shall be paid out of the fund—

(a) all payments given as rewards to such Price Control Inspectors and in accordance with regulations made in that behalf;

(b) the expenses incurred in the administration of the fund ; and

(c) all payments as may be made in accordance with regulations made in that behalf.

(4) The Controller of Prices shall be responsible for the administration of the fund and the accounts of the fund shall be audited annually by the Auditor-General.

Protection of officers.

9. No civil action or criminal prosecution shall be instituted or maintained against the Controller or any Deputy or Assistant Controller or any other officer appointed for the purposes of this Act in respect of any act bona fide done or omitted to be done in pursuance of any power or authority conferred or granted by or under this Act or by or under any Order or regulation made thereunder.

Application of Act. (§5, Law 43 of 1975.]

10. The provisions of this Act or of any Order made or deemed to be made under the National Prices Commission Law fixing the price of any article shall have no application to any article imported, purchased or stored by or on behalf of the naval, military, air force or civil authorities for the use of the armed services of Sri Lanka or the Government, or to the price at which any article specified by the Minister by Notification published in the Gazette is sold to any officer authorized by the Minister to purchase such article for the use of the Government; but nothing in this section shall be deemed or construed to permit any person to sell, or authorize any person to refuse to sell, any article to the naval, military or air force authorities, or to any other person on behalf of any of the last-mentioned authorities, in contravention of the aforesaid provisions.

interpretation.

11. in this Act, unless the context otherwise requires—

" appointed date " means the 9th day of December, 1950;

" article " means any article of food, drink or merchandise;

"Controller

(a) in relation to articles of food or drink, means the Controller of Prices (Food) appointed under section 2 (1) (a); and

(b) in relation to any other articles, means the Controller of Prices (Miscellaneous Articles) appointed under section 2(1) (b), and the expressions " Deputy Controller" and " Assistant Controller "shall be construed accordingly; and

" Order made or deemed to be made under the National Prices Commission Law" includes a variation under section 22 of the National Prices Commission Law of an Order made or deemed to be made under section 20 of that Law ;

"price-controlled article" means any article in respect of which an Order made or deemed to be made under the National Prices Commission Law fixing the price of such article, is in operation;

" requisition ", in relation to any quantity of any article other than an article of food or drink, means to take possession of that quantity or to require that quantity to be placed at the disposal of the Controller.

12. Notwithstanding the repeal of section 4 of this Act by Law No. 43 of 1975, every Order made under the repealed section 4 in respect of any article, and in force on the 26th day of November, 1975, shall, in so far as that Order is not inconsistent with the provisions of the National Prices Commission Law, be deemed to be an Order made under section 20 of that Law.

CHAPTER 282

CONTROL OF PESTICIDES

Act
No. 33 of 1980.

AN ACT TO PROVIDE FOR THE LICENSING OF PESTICIDES ; TO REGULATE THE IMPORT, PACKING, LABELLING, STORAGE, FORMULATION, TRANSPORT, SALE AND USE THEREOF; FOR THE APPOINTMENT OF A LICENSING AUTHORITY FOR PESTICIDES ; FOR THE ESTABLISHMENT OF A PESTICIDE FORMULARY COMMITTEE AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[5 th September, 1980.]

Short title.

1. This Act may be cited as the Control of Pesticides Act.

of Pesticides (hereinafter referred to as the " Registrar "); and

Application of the Act.

2. This Act shall apply to—

(a) active ingredients and pesticide formulations with included adjuvants; and

(b) not more than eight persons who are experienced in the use of pesticide or in pest control and related scientific disciplines who shall be appointed by the Minister:

(b) adjuvants other than those included in pesticide formulation if s6ld for addition at the point of use to the spray tank of other container of pesticide formulations.

Provided, however, that no person having a commercial interest in the manufacture, import, marketing, formulation, storage, transport or sale of pesticides shall be so appointed.

Licensing Authority for pesticides.

3. (1) There shall be appointed a Registrar of Pesticides who shall be the licensing authority for pesticides.

(2) The Registrar of Pesticides shall be a person with knowledge of toxicology and biological subjects associated with pest control and shall be responsible to the Director of Agriculture.

(3) The Director, shall if present preside at all meetings of the Committee. In the absence of the Director from any such meeting, the members present shall elect one of the members to preside at such meeting.

Pesticide Formulary Committee.

4. (1) There shall be a Pesticide Formulary Committee (hereinafter referred to as the " Committee ").

(2) The Committee shall consist of—

(4) Every member, other than the ex officio members shall, unless he vacates office earlier by death, resignation or removal by the Minister, hold office for a period of three years from the date of the appointment to such office:

(a) the following ex officio members namely—

Provided that a member appointed in place of a member who dies, resigns or otherwise vacates office, shall, unless he earlier vacates office, hold office for the unexpired part of the term of office of the member whom he succeeds.

(i) the person holding office for the time being as the Director of Agriculture (hereinafter referred to as the " Director "), and

(ii) the person holding office for the time being as the Registrar

(5) The Minister may, by Order published in the Gazette remove any member, other than the ex officio members,

from office, without assigning any reason therefor and such removal shall not be called in question in any court.

(6) Any member other than the ex officio members vacating office by the effluxion of time shall be eligible for reappointment.

(7) If any member, is temporarily unable to perform the duties of his office during any period due to ill health or absence from Sri Lanka or for any other cause, the Minister may appoint some other person to act in his place during such period in like manner as such member was appointed in accordance with the provisions of subsection (1).

(8) The Minister may determine the remuneration of such members and the manner of such payment in consultation with the Minister in charge of the subject of Finance.

Functions of the Committee.

5. (1) The functions of the Committee shall be to advise the Registrar on any important matter relating to the registration of pesticides, approval of containers, and the storage, formulation, import, sale and use of pesticides and such other matters relating thereto as may be prescribed by regulations made under this Act.

(2) (a) The Committee may make rules in respect of all or any of the following matters:—

- (i) the procedure to be followed at its meetings;
- (ii) the conduct of its business; and
- (iii) all matters connected with or incidental to the carrying on of its business.

(b) Such rules shall be made at a meeting of all members of the Committee.

(c) No rule made by the Committee shall have effect unless it is approved by the Minister and published in the Gazette.

6. (1) Every person desirous of licensing any pesticide shall make an application to the Registrar in that behalf. Application for licence.

(2) An application under subsection (1) shall contain the following particulars :—

- (a) the name and address of the applicant;
- (b) the name and address of the manufacturer or producer of the pesticide in respect of which such application is made;
- (c) the proposed trade name under which such pesticide shall be marketed or sold;
- (d) a copy of the draft label which shall be affixed on any container in which such pesticide shall be sold ;
- (e) samples of the container in which such pesticide shall be distributed or sold;
- (f) a statement of the claim made by the manufacturer or producer of such pesticide as to its uses, potency, shelf-life and effect;
- (g) a statement of the composition of such pesticide, its chemical identity, nett weight, its stability in storage, methods of use and date of expiry for usage;
- (h) adequate toxicological data concerning such pesticide including information on antidote;
- (i) methods of analysis of the formulated compound;
- (j) methods for the determination of the residue of such pesticide ;
- (k) report of official or other experimental stations or laboratory or biological tests concerning the efficacy of such pesticide;
- (l) such other information relating to the efficacy or safety of the pesticide as may be required by the Registrar.

(3) Where the information contained in an application made under subsection (1) is given by the applicant in confidence, it shall be treated as confidential by the Registrar:

Provided that the preceding provisions of this subsection shall not apply where it is necessary to divulge such information if so required by a court of law.

Consideration of application.

7. (1) The Registrar shall, on receipt of an application under subsection (1) of section 6—

- (a) register the pesticide and issue a licence; or
- (b) register the pesticide and, pending the issue of a licence, issue a provisional permit for limited marketing and use of the pesticide in accordance with conditions stipulated in the permit; or
- (c) reject the application and state the reasons for such rejection.

(2) The issue of a licence or a permit shall be effective for the period stated in the licence or permit, and shall be renewable on application made in that behalf. Such renewal shall be conditional upon a review by the Registrar of the data on the pesticide in question.

Issue of licence.

8. (1) The Registrar shall not issue a licence under paragraph (a) of subsection (1) of section 7 unless the copy of the draft label submitted with the application contains in the Sinhala, Tamil and English languages the following particulars :—

- (a) the trade name under which the pesticide shall be sold ;
- (b) the common names of the active ingredients of the pesticide, in characters not smaller in size than half the size of those used for the trade name of the pesticide, and in a position placed directly below the trade name;
- (c) a statement of the composition of the pesticide with the chemical identity

of the active ingredients expressed on a weight by weight percentage basis, together with the percentage of other materials present, to give one hundred per cent, and in the case of liquid formulations, the active ingredient expressed as grams per litre;

- (d) the name and address of the holder of the licence;
- (e) adequate directions concerning the manner in which the pesticide is to be used, including information as to the period of time which should elapse between the last application of the pesticide and harvest of the crop to which it is applied and where the Registrar deems appropriate, the shelf-life of the pesticide;
- (f) adequate warning and precautionary symbols and statements including first aid and antidote information;
- (g) the statement " Registered under the Control of Pesticides Act, 1980" which shall be an official symbol indicating that the pesticide has been licensed under this Act and the licence number assigned to it by the Registrar;
- (h) any other particulars as may be prescribed by regulations under this Act.

(2) Where licensing of a pesticide has been effected under subsection (1) of section 7 no change in respect of any matters set out in paragraphs (a) to (h) of subsection (1) of this section shall be made without the prior approval of the Registrar.

9. (1) Where the Registrar issues a licence under subsection (1) of section 7, he shall declare that pesticide to be an approved pesticide.

(2) Every declaration made under subsection (1) shall be approved by the Minister and published in the Gazette.

Approved container or package.

10. The Registrar shall, when he approves a pesticide, also approve the container or package containing such pesticide, if he is satisfied, having regard to the conditions required for safe and effective storage and handling of such pesticide, that such container or package is satisfactory.

suspension, withdrawal or modification within sixty days after such decision is communicated to such person and the Secretary may, in dealing with any appeal preferred to him, affirm, vary or annul the order against which the appeal has been preferred.

Cancellation of licence.

11. (1) Where any person contravenes any provision of this Act or any regulation or Order made thereunder, or where the Registrar considers it necessary in the interest of the public to do so, he may, on the advice of the Committee cancel, suspend or modify the licence issued in respect of such pesticide or withdraw, suspend or modify the provisional permit issued to such person.

(2) The decision of the Secretary upon an appeal shall be final and conclusive for all purposes whatsoever, and shall not be called in question in any court.

(2) Where the Registrar cancels, suspends or modifies the licence or withdraws, suspends or modifies the provisional permit issued in respect of a pesticide under subsection (1) he shall state the reasons for such cancellation, suspension, modification or withdrawal as the case may be.

14. No person shall manufacture, formulate, pack or distribute, sell, offer for sale or deliver within the country, any pesticide unless—

- (a) such pesticide is registered and a valid licence or a provisional permit is obtained from the Registrar; and
- (b) such pesticide is contained in an approved container or package and an approved label is conspicuously fixed thereon:

(3) Where any cancellation or suspension takes place in respect of a pesticide under subsection (1) such pesticide shall cease to be an approved pesticide.

Provided, however, that the foregoing provisions of this section shall not apply where any approved research organization imports with the written consent of the Registrar any specified quantity of pesticides or pesticide components for the purposes of research.

(4) Every cancellation or suspension under subsection (1) shall be by Order published in the Gazette.

15. No person shall manufacture, pack, distribute, sell or offer for sale or deliver within the country any pesticide, which is adulterated or which has decomposed or deteriorated so as to be ineffective or dangerous or which is packed in containers which have deteriorated or have been damaged as to be dangerous in storage or use.

Alteration in package or composition.

12. No alteration in the package, label or composition of a pesticide shall be made by the holder of a licence issued in respect of a pesticide unless an application is made in that behalf and approval obtained from the Registrar in respect of such intended alteration.

Appeals.

13. (1) Any person aggrieved by the rejection of an application under section 7 or the cancellation, suspension, or modification of a licence or the withdrawal, suspension or modification of a provisional permit under section 11, may prefer an appeal in writing to the Secretary to the Ministry charged with the subject of Agricultural Development and Research (hereinafter referred to as the "Secretary") against such rejection or cancellation,

16. No person shall store, transport, sell or offer for sale any pesticide in close juxtaposition with foodstuffs or in any such manner as would result in the contamination of such foodstuffs.

17. No person shall import any pesticide except with the written approval of the Registrar granted on the advice of the Committee.

Advertisement of pesticides. **18.** (1) Any written, printed or graphic material relating to and accompanying a pesticide when stored, transported, distributed, sold, offered for sale or delivered within the country shall include the substance of the particulars referred to in section 8.

(2) It shall be unlawful to advertise any pesticide in a manner that is false, misleading or deceptive, and not justified by the conditions of its registration.

(3) Any claim for a pesticide contained in any advertisement or device shall be in accordance with the label statements referred to in section 8, and not be contrary to the requirements of subsection (2) of this section.

Storage of pesticides in bulk.

19. (1) No person shall store pesticides in bulk other than in a special store kept for that purpose. The store shall be kept locked when loading or unloading is not in progress.

(2) A notice shall be displayed in a conspicuous position outside the store indicating the hazardous nature of its contents.

Harvesting of crops.

20. No person shall harvest, or offer for sale any food crops, in which pesticides have been used unless a time limit as may be prescribed by regulations has elapsed between such use and harvest, or if the food crops shall contain pesticide residue in excess of levels as may be prescribed.

Authorized officers and their powers and functions.

21. (1) The Director shall nominate such number of officers of his department as may be necessary to carry out the purposes of this Act, who shall be known as " authorized officers ".

(2) An authorized officer may—

(a) ascertain whether any person has contravened any provision of this Act or any regulation or Order made thereunder;

(b) obtain samples of pesticides for the purpose of determining whether any

deterioration, adulteration or decomposition thereof has occurred; and

(c) do all other acts or things which are connected with or are in furtherance of the exercise, performance and discharge of the powers, duties and functions under this Act.

(3) Any authorized officer may enter any premises, after sufficient notice at all reasonable hours of the day in the discharge of his functions under this Act. Such authorized officer shall not be liable on account of such entry or on account of anything done bona fide in such premises which is necessary in the exercise, performance and discharge of the powers, duties and functions under this Act.

22. (1) An authorized officer on obtaining a sample of a pesticide shall forthwith inform the seller or his agent of his intention to have the same analysed by an authorized analyst and shall forthwith divide the sample into three equal parts and cause each part to be marked and sealed in such manner as its nature will permit and shall deliver one part each to the seller or his agent, the authorized analyst and the Registrar.

Analysis of samples.

(2) In the event of a dispute in respect of the result of an analysis the Registrar shall forward such part of the sample as is in his custody to a referee analyst nominated by him.

(3) In any proceedings under this Act the production of a certificate signed by an authorized analyst or a referee analyst with regard to any sample procured for analysis under this section shall be prima facie evidence of the facts stated therein.

23. (1) (a) Every application for the licensing of a pesticide under section 6, and

Fees.

(b) every appeal against any rejection, cancellation, suspension, withdrawal or modification under section 13,

shall be accompanied by such fee as may be prescribed by regulations made under this Act.

(2) In addition to such fee payable under subsection (1), a levy on the importer, manufacturer, formulator or packer of a pesticide may be prescribed by regulations made under this Act for the general purpose of making proper financial provision for the effective implementation of this Act and of the regulations made thereunder.

Penalty for contravention of this Act.

24. (1) Every person who contravenes or fails to comply with any provision of this Act or any regulation made thereunder shall be guilty of an offence under this Act and shall on conviction by a Magistrate be sentenced to imprisonment of either description for a period of two years.

(2) Where an offence under this Act is committed by a body of persons, then—

- (a) if that body of persons is a body corporate, every director, manager, secretary or officer of that body corporate; or
- (b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence :

Provided, however, that no such person shall be deemed to be guilty of an offence if he proves that such offence was committed without his knowledge or that he exercised *due diligence* to prevent (&& comm\ss\bn of the offence.

Forfeiture.

25. The Court which convicts any person of an offence under this Act, may impose any of the penalties hereinbefore prescribed, and may, if it thinks fit, in addition order that all or any article or articles in respect of which the offence was committed be seized and forfeited to the State.

Regulations.

26. (1) The Minister may make regulations in respect of matters required by this Act to be prescribed or in respect of which regulations are authorized to be made and in particular in respect of all or any of the following matters :—

- (i) setting forth the position, size and colouring of the label as well as the system or systems of weights or measures to be stated in the label;

(ii) setting forth special provisions with regard to the substances or operations which presents a high or unusual degree of hazard; such special provisions may in particular—

- (a) provide for the field evaluation of certain substances;
- (b) regulate the marketing or distribution of certain substances as may be necessary to safeguard third parties, the environment and wildlife resources other than such noxious plants and animals whose control is desired;

(iii) fixing the dates on which the marketing and sale of pesticides for which licences are issued under this Act shall cease and the disposal of such pesticides;

(iv) establishing standards or technical competence and equipment used by any person or body of persons engaged in the manufacture, formulation and packing of pesticides;

(v) the designation of any product as a pesticide formulation; and

(vi) the mode and manner of use of pesticides.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation shall be deemed to be so rescinded shall be published in the Gazette.

Interpretation. **27.** In this Act, unless the context otherwise requires—

" active ingredient " means any substance which gives a formulated product its pesticidal properties;

" adjuvant " means any substance used as an aid to the efficacy of a pesticide ;

" authorized analyst" means the Government Analyst, the Additional Government Analyst, a Deputy Government Analyst, a Senior Assistant Government Analyst, an Assistant Government Analyst and any other person authorized by the Minister by notification in the Gazette to act as such;

" pest" means any insect, rodent, bird, fish, mollusc, nemtode, fungus, weed, micro-organism, virus or other kind of plant or animal life which is injurious, troublesome or undesirable to crops, stored

products, processed foods, wood, clothes, fabrics or inanimate objects or which are objectionable from the view point of public health and hygiene, and shall also include ectoparasites and endoparasites of man and domestic animals other than any pest which may be specifically included or excluded by regulations made under this Act;

" pesticide" means any substance intended for use or used for controlling a pest and shall include active ingredients, adjuvants and pesticide formulations;

" pesticide formulations" means any mixed or unmixed products sold, supplied, imported for use, or used for one or more of the following purposes, namely, for destroying or repelling any pest within the meaning of this Act or for preventing its growth or mitigating its effects, as a plant regulator defoliant or desiccant or as an adjuvant and includes any similar product so designated by regulations made under this Act.

CHAPTER 468

CONGRESS OF RELIGIONS

Act No. 13 of 1970. AN ACT TO INCORPORATE THE CONGRESS OF RELIGIONS.

[12th March, 1970.]

Short title. **1.** This Act may be cited as the Congress of Religions Act.

service possessing a spiritual background that also galvanises the energies of the community as a whole.

Incorporation of the Congress of Religions. **2.** (1) From and after the date of the commencement of this Act, the members for the time being of the Congress of Religions (hereinafter referred to as the "Congress") and such and so many persons as shall after that date be admitted members of the Congress shall be and are hereby constituted a body politic and corporate (hereinafter referred to as the "Corporation") with the name of "The Congress of Religions".

4. The governing body of the Corporation shall, subject to the rules in force for the time being of the Corporation as hereinafter provided, be the Council consisting of such members with such qualifications and who shall exercise such powers as the said rules shall direct. The first Council of the Corporation shall be the Council of the Congress of Religions for the time being consisting of Messrs. D. L. F. Pedris, T. R. Rustomjee, E. W. Kannangara, Alhaj S. M. A. Raschid, Mrs. Grace Wijeyekoon, Messrs. Oliver L. Abeyesekera, C. V. Wigneswaran, U. L. M. Farook, Theodore Abesekera, F. H. P. Joseph, Dr. Lucien Dharmaratne, Col. R. Sabanayagam, Messrs. S. Somasunderam, Ben J. Thiedeman, M. R. Unni Nayar, A. C. Nadarajah, S. T. Molligoda, M. M. Jayah, V. S. M. de Mel, Alhaj M. M. Cassim, Rev. Fr. S. T. Balasuriya, Messrs. S. C. Banker, C. Thanabalasinham, D. R. Gunasegaram, M. Kanagasabay, K. Kanagaratnam, Commander A. G. Devendra, Rev. Fr. V. de P. Gnanapragasam, Messrs. K. Sivapalan, C. B. Walgampaya, S. Sankarakumaran, Anurudha Ratwatte, S. H. M. Sahidu, S. Gunadhira and Commander D. C. Ingleton.

The Council.

(2) The Corporation shall, in the said name and for the purpose hereinafter mentioned, have perpetual succession, and may by the said name sue and be sued in all courts, and shall have full power and authority to use a common seal and to alter the same at its discretion.

General objects of the Corporation. **3.** The general objects for which the Corporation is constituted are hereby declared to be—

- (c) to establish and maintain an Inter-Religions Council composed of the religious leaders of the community to resolve acrimonies and allay suspicion among religious denominations;
- (b) to sponsor action that promotes mutual understanding between religious denominations;
- (c) to sponsor action that promotes religious amity based on such mutual understanding; and
- (d) while not by any means undermining the value of sectarian or secular social service, to sponsor a form of

5. The affairs of the Corporation shall be administered by an executive body called the Executive Committee composed of the office-bearers of the Congress as are eligible under the rules of the Corporation and it shall consist of such number of members with such qualifications exercising such powers and for such periods as the said rules shall direct.

The Executive Committee.

Debts due and payable to Corporation.

6. All debts and liabilities of the Congress existing at the time of coming into operation of this Act shall be paid by the Corporation hereby constituted, and all debts due to and subscriptions and contributions payable to the Congress shall be paid to the Corporation for the purposes of this Act.

expulsion of members, for the conduct of the duties of the Executive Committee and of the various officers, agents and servants of the Congress, for the procedure to be observed at meetings, for convening meetings, for the transaction of the business of the Congress, for the administration and management of the property of the Congress, for the determination of the subscription payable by members and the collection of such subscriptions, and otherwise generally for the management of the affairs and the accomplishment of the objects of the Congress. Any such rule may at such a meeting be amended, added to or repealed.

Power of Corporation to hold property.

7. The Corporation shall be able and capable in law to receive and to hold property both movable and immovable, which may be vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise; and all such property shall be held by the Corporation for the purposes of this Act and subject to the rules for the time being of the Corporation with full power (subject to any trust attaching to such property and to the law regulating such trusts) to sell, mortgage, lease, exchange or otherwise dispose of the same.

10. The rules set out in the Schedule* to this Act shall for all purposes be the rules of the Corporation:

Rules in the Schedule to be the rules of the Corporation.

Provided, however, that nothing in this section contained shall be held or be construed to prevent the Corporation at all times hereafter from making fresh rules or from altering, amending or adding to the existing rules or to rules which are hereafter made by the Corporation.

Seal of Corporation.

8. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of the Board of Trustees, the General Secretary and a member of the Executive Committee of the Congress duly authorized for the purpose under the rules thereof, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness,

11. No rule in the Schedule* to this Act nor any rule which may hereafter be passed at a meeting shall be altered, added to, amended or rescinded, except by a vote of the majority of the members present and voting at a general meeting of the members of the Congress.

Amendment, &c.. of rules.

Power to make rules.

9. It shall be lawful for the Corporation from time to time at any general meeting of the members and by a majority of the members present and voting, to make, subject to the provisions of sections 10 and 11, rules for the admission, withdrawal or

12. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act, and those claiming by, from, or under them,

Savings of rights of the Republic and others.

* Schedules omitted.—Private enactment.

CHAPTER 514

COMRADES OF THE GREAT WAR

Ordinance No. 15 of 1923. AN ORDINANCE TO INCORPORATE THE COMRADES OF THE GREAT WAR (CEYLON) ASSOCIATION.

[12th November, 1923.]

Short title. **1.** This Ordinance may be cited as the Comrades of the Great War (Ceylon) Association Ordinance.

those who have fallen in the Great War, and to see that all moneys raised and contributed from any source for the welfare of the members of the association are utilized for that purpose.

Incorporation. **2.** (1) From and after the passing of this Ordinance the president, vice-presidents, and the members of the committee for the time being of the Comrades of the Great War (Ceylon) Association, and such and so many persons as now are members of the said association or shall hereafter be admitted members of the corporation hereby constituted, shall be and become a corporation with continuance for ever under the name and style of "The Comrades of the Great War (Ceylon) Association", and by that name shall and may sue and be sued in all courts, with full power and authority to have and use a common seal and to change and alter the same at their pleasure.

4. The affairs of the association shall be managed by such committee or committees, as may be prescribed by rules under this Ordinance. Management.

5. It shall be lawful for the association from time to time, at any general meeting of its members and by a majority of votes, to make all such rules as may be deemed necessary for the general management of the association, and the accomplishment of its objects. Such rules when made may, at a like meeting, be altered, added to, amended, or cancelled, subject, however, to the requirements of section 7. Power to make rules-

(2) In the event of the association ceasing to exist from lack of members or from any other reason, the property of the association may be applied to such purposes, as nearly as possible resembling the objects of the association, as the President may direct.

6. Subject to the provisions in section 5 contained, the rules set forth in the Schedule* shall be, for all purposes, the rules of the association : Rules in the Schedule* to be the rules of the association,

General objects.

3. The general objects for which the association is constituted are hereby declared to be to promote and perpetuate the spirit of comradeship, patriotism, and devotion which has characterized the fighting forces of the Empire, to perpetuate the memory of those who died in the Great War of 1914-1918, to watch and safeguard the interests of its members, to protect its members and their dependants, to assist and protect the women and children left by

Provided, however, that nothing in this section contained shall be held or construed to prevent the association at all times hereafter from making fresh rules, or from altering, amending, adding to, or cancelling any of the rules in the aforesaid Schedule* contained or to be hereafter made by the association.

7. No rule in the Schedule* nor any rule hereafter passed at a general meeting as provided for in section 5 of this Ordinance, shall be altered, added to, amended, or cancelled, except by a majority of the Amendments.

* Schedule omitted.—Private enactment.

COMRADES OF THE GREAT WAR

members present and voting at any subsequent general meeting.

10. All debts and liabilities of the said Comrades of the Great War (Ceylon) Association existing at the time of the coming into operation of this Ordinance shall be paid by the association hereby incorporated, and all debts due to, and subscriptions, contributions, donations, and fines payable to, the first-named association shall be paid to the hereby-incorporated association for the purposes of this Ordinance.

Debts, &c., due by or to association.

Property vested in corporation.

8. On the coming into operation of this Ordinance all property belonging to the said Comrades of the Great War (Ceylon) Association, whether held in the name of the said association or in the name or names of any person or persons in trust for the said association, shall be and the same is hereby vested in the association hereby incorporated, and the same shall be held by the said association for the purposes of this Ordinance, and subject to the rules for the time being of the said association.

11. The seal of the association shall not be affixed to any instrument whatsoever except in the presence of at least six of the members of the general committee for the time being, and the members so present shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as witness.

Procedure in affixing seal.

Holding of property.

9. The association shall be able and capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, gift, grant, testamentary disposition, donation, or otherwise, and all such property shall be held by the association for the purpose of this Ordinance, and, subject to the rules for the time being of the said association, with the full power to sell, lease, mortgage, exchange, or otherwise dispose of the same.

12. Nothing in this Ordinance contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other person, except such as are mentioned in this Ordinance and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

CHAPTER 28

CORPORAL PUNISHMENT

Ordinances
nos. 16 of 1889

3 of 1904

51 of 1939.

AN ORDINANCE TO REGULATE THE LAW RELATING TO SENTENCES OF WHIPPING.

[3rd August. 1W.]

short title

1. This Ordinance may be cited as the Corporal Punishment Ordinance.

Maximum
number of
strokes or lashes
which may
lawfully be
inflicted for an
offence.

2. When a person is convicted of any offence legally punishable by whipping, the sentence awarded by the court for such offence shall not, anything to the contrary in any enactment present or future of Sri Lanka notwithstanding, exceed the number of six strokes with a light cane or rattan in the case of a boy below the age of sixteen, or of twenty-four strokes with a rattan or the like number of lashes in the case of a person above the age of sixteen.'

Maximum
number of
strokes for
combined
offence.

3. When a person is convicted at one trial of any two or more distinct offences, any two or more of which are legally punishable by whipping, the combined sentences awarded by the court for any such offences shall not, anything to the contrary in any enactment present or future of Sri Lanka notwithstanding, exceed a total number of six strokes with a light cane or rattan in the case of a boy below the age of sixteen, or of twenty-four strokes with a rattan or the like number of lashes in the case of a person above the age of sixteen.

Maximum
number of
strokes which
may be inflicted
for breach of
prison
regulations.

4. When any sentence of whipping shall be passed by the lawful authority upon any prisoner for breach of any prison or other regulation, the total number of strokes to be inflicted under such sentence shall not exceed twelve strokes with a rattan cane in the case of a boy above the age of fourteen and below the age of sixteen, or twenty-four strokes with a rattan or the like number of lashes in the case of a person above the age of sixteen; and no prisoner shall be liable for more than one such sentence in respect of the act or acts or omission or omissions in respect of which he shall have been sentenced as aforesaid.

The instrument
to be used.

5. No sentence of whipping shall be carried out except with an instrument approved by the Minister in charge of the subject of Justice.

6. In no case shall a sentence of Females not to whipping be passed upon a female either by be whipped. the courts or in the prisons of Sri Lanka.

7. (1) Whoever is convicted by the High Court or any Magistrate's Court of any of the following offences may be punished with whipping in addition to any other punishment to which he may for such offence be liable under the Penal Code, that is to say:—

Offences
punishable with
whipping in
addition to other
punishments
prescribed by the
Penal Code.

(a) voluntarily causing hurt by dangerous weapons or means, as defined in section 315 of the said Code ;

(b) voluntarily causing grievous hurt by dangerous weapons or means, as defined in section 317 of the said Code;

(c) rape, as defined in section 363 of the said Code; and attempting to , commit the same;

{d) unnatural offences, as defined in section 365 of the said Code;

(e) theft after preparation for causing death or hurt, as defined in section 371 of the said Code;

(f) extortion by threat, as defined in section 377 of the said Code;

(g) putting a person in fear of accusation in order 'to commit extortion, as defined in section 378 of the said Code;

(h) robbery, as defined in section 379 of the said Code;

(i) attempting to commit, robbery, as defined in section 381 of the said Code;

(j) robbery with attempt to cause death or grievous hurt, as defined in section 383 of the said Code;

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(k) attempting to commit robbery when armed with deadly weapon, as defined in section 384 of the said Code;

Code, in order to the committing of any offence punishable with whipping under this section.

(l) lurking house-trespass or house-breaking, as defined in sections 429 and 431 of the said Code, in order to the committing of any offence punishable with whipping under this section;

(2) Subsection (1) shall apply only to male offenders above the age of sixteen years.

(m) lurking house-trespass by night or house-breaking by night, as defined in sections 430 and 432 of the said

8. Nothing in this Ordinance shall be taken to empower any court or prison authority to award in respect of any offence a greater number of strokes or lashes than could have been lawfully awarded if this Ordinance had not been enacted.

Ordinance in no case increases maximum number of strokes which may be awarded.

CHAPTER 177

COMPANIES (SPECIAL PROVISIONS)

Law

No. 19 of 1974. A LAW TO PROHIBIT COMPANIES FROM OWNING PROPERTY OR CARRYING ON ANY UNDERTAKINGS IN SRI LANKA AFTER A SPECIFIED DATE UNLESS THEY ARE INCORPORATED UNDER THE COMPANIES ORDINANCE *OR ARE EXEMPTED COMPANIES AND TO ENABLE THE ACQUISITION ON BEHALF OF THE GOVERNMENT OF THE WHOLE OR ANY PART OF THE UNDERTAKINGS OF COMPANIES WHICH ARE NOT SO INCORPORATED OR EXEMPTED, FOR WHICH COMPENSATION IS PAYABLE. TO APPOINT A TRIBUNAL FOR THE ASSESSMENT OF SUCH COMPENSATION, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[19th June, 1974.]

Short title. **1.** This Law may be cited as the Companies (Special Provisions) Law.

PART I

CERTAIN PROHIBITIONS ON COMPANIES AFTER A SPECIFIED DATE UNLESS THEY ARE INCORPORATED UNDER THE PRINCIPAL ENACTMENT OR ARE EXEMPTED COMPANIES

Certain prohibitions on companies, subject to certain exemptions, unless they are incorporated under the principal enactment.

2. (1) On and after the first day of September, 1974, in this Law referred to as the "appointed date", no company—

- (a) shall have an interest in any property in Sri Lanka, whether as owner, co-owner, lessee, mortgagee, or otherwise, or
- (b) shall carry on any undertaking in Sri Lanka, unless such company is recognized as an "existing company", or is incorporated, under the principal enactment, or is an exempted company.

(2) Before the appointed date, the Minister may, from time to time, by Order published in the Gazette, alter such date, and thereafter the new date specified in the Order shall be deemed to be the appointed date for the purposes of this Law.

Power of Minister to issue a direction of exemption.

3. (1) Before the appointed date, the Minister may from time to time, with the prior concurrence of the Minister in charge of the subject of Finance, issue a written

direction, in this Part referred to as a "direction of exemption", exempting from the application of the provisions of section 2 any such company or class or category of companies not incorporated under the principal enactment as shall be specified in such direction. The Minister shall cause notice of such direction to be published in the Gazette.

(2) After the appointed date, the Minister may from time to time with the prior concurrence of the Minister in charge of the subject of Finance issue a direction of exemption, exempting from the application of the provisions of section 2 any such company or class or category of companies formed or established after the appointed date as shall be specified in such direction. The Minister shall cause notice of such direction to be published in the Gazette.

(3) A direction of exemption shall, for so long and so long only as it is in force, be final and conclusive, and shall not be called in question in any court or tribunal.

(4) A company in respect of which, or in respect of the class or category to which it belongs, a direction of exemption is for the time being in force is in this Law referred to as an "exempted company".

4. (1) The Minister may from time to time, with the prior concurrence of the Minister in charge of the subject of Finance, issue a written direction revoking, with

Power of Minister to revoke a direction of exemption.

* Later repealed and replaced by the Companies Act, No. 17 of 1982— See 1985 Supplement to the Revised Edition.

effect from such date as shall be specified in the direction, a direction of exemption in respect of any company or class or category of companies and, upon the direction of revocation taking effect, the direction of exemption shall cease to be in force. The Minister shall cause notice of the direction of revocation to be published in the Gazette.

(2) A direction of revocation issued by the Minister under subsection (1) shall be final and conclusive and shall not be called in question in any court or tribunal.

5. Where any cultivated agricultural land in Sri Lanka owned or possessed on May 29, 1971, by a company registered or incorporated outside Sri Lanka is transferred by such company after the 19th day of June, 1974, to a company which is recognized as an "existing company", or which is incorporated, under the principal enactment, such land shall not be taken into account in the computation of the acreage of agricultural land for the purpose of applying the ceiling under the provisions of the Land Reform Law in respect of the latter company.

Certain lands transferred by foreign companies not to be taken into account in applying the ceiling under Land Reform Law.

PART II

POWER OF MINISTER TO VEST IN THE GOVERNMENT THE WHOLE OR ANY PART OF THE UNDERTAKINGS OF COMPANIES, OTHER THAN EXEMPTED COMPANIES, WHICH ARE NOT INCORPORATED UNDER THE PRINCIPAL ENACTMENT

6. (1) The Minister may from time to time, by Order published in the Gazette (in this Part referred to as a "vesting Order under this Part"), vest in the Government, with effect from such date as shall be specified in the Order, the whole or any part of the undertaking of any such company as shall be specified in the Order, being a company, other than an exempted company, which, on the appointed date, is not incorporated under the principal enactment.

Vesting Order under this Part.

(2) Before a vesting Order under this Part takes effect, the Minister may, by Order published in the Gazette—

(a) alter or amend such Order; or

(b) alter the date on which such Order takes effect.

(3) A vesting Order under this Part shall have the effect of giving the Government absolute title to the whole or part, as the case may be, of the undertaking of any such company to which such Order applies as shall be specified in such Order with effect from such date as shall be specified thereon, and free from all encumbrances.

(4) Subject to any Order by the Minister published in the Gazette under subsection (2), a vesting Order under this Part shall be final and conclusive, and shall not be called in question in any court or tribunal.

7. (1) Where the whole or any part of the undertaking of any company is vested in the Government by virtue of the operation of a vesting Order under this Part, the Minister may appoint any person, by name or by office, to be a competent authority for the purpose of managing such undertaking, or part thereof, as the case may be.

Appointment of a competent authority.

(2) In the exercise and discharge of the powers and functions conferred on him by subsection (1), a competent authority shall be subject to such general or special directions as the Minister may issue from time to time.

8. (1) A competent authority, or any authorized officer, may take possession, on behalf of the Government, of the whole or any part, as the case may be, of the undertaking of any company vested in the Government by virtue of a vesting Order under this Part.

Taking possession of the whole or any part of any undertaking vested in the Government by virtue of the operation of a vesting Order under this.

(2) A competent authority, or any authorized officer, shall, by notice given to the person in possession of any property comprising the whole or any part, as the case may be, of any undertaking of any company vested in the Government by virtue of the operation of a vesting Order under this Part—

(a) inform such person that such authority or officer intends to take

possession of such property on behalf of the Government on such date and at such time and place as shall be specified in the notice; and

(b) require such person or his authorized agent to be present on the date and at the time and place so specified, and to allow and assist such authority or officer to take possession of such property on behalf of the Government.

(3) Any notice required to be given to any person under the preceding provisions of this section shall be deemed to be given to him if such notice is sent to him by registered letter through the post.

(4) Any person—

(a) who contravenes or fails to comply with the requirements of any notice given to him under this section; or

(b) who wilfully or negligently destroys, damages or impairs, or causes to be destroyed or damaged or impaired, or wilfully conceals or puts away, any property comprising the whole or any part of the undertaking of any company vested in the Government by virtue of the operation of a vesting Order under this Part; or

(c) who prevents or obstructs, or directly or indirectly causes any person to prevent or obstruct, a competent authority or any authorized officer in taking possession of such property,

shall be guilty of an offence and shall, on conviction after trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year, or to a fine not exceeding five thousand rupees, or to both such imprisonment and fine.

(5) The expression "authorized officer", in this Part means any officer appointed by a competent authority to be an authorized officer for the purposes of this Part.

9. Where the whole or any part of the undertaking of any company is vested in the Government by virtue of the operation of a vesting Order under this Part, a competent authority shall, by notice published in the Gazette, direct every person who had an interest in such undertaking or part thereof immediately before the date on which such undertaking or part thereof was so vested, to make, within a period of two months reckoned from the date specified in the notice, a written claim to the whole or any part of the compensation payable under this Law in respect of such undertaking or part thereof together with all documents relied upon by him in support of his claim, and to specify in the claim—

(a) his name and address;

(b) the nature of his interest in such undertaking or part thereof;

(c) the particulars of his claim; and

(d) how much of such compensation is claimed by him.

10. (1) A competent authority shall refer to the Tribunal for determination the amount of the compensation payable in respect of the whole or any part, as the case may be, of the undertaking of any company vested in the Government by virtue of the operation of a vesting Order under this Part, and shall transmit to the Tribunal all claims made to such compensation, together with all documents furnished by the claimants in support of their claims.

(2) A reference made under subsection (1) to the Tribunal is hereafter in this Law referred to as a "reference for an award as to compensation".

11. (1) Where a competent authority, or any authorized officer, is unable or apprehends that he will be unable to take possession on behalf of the Government of any property comprising the whole or any part of the undertaking of any company which is vested in the Government by virtue of the operation of a vesting Order under this Part because of any obstruction or resistance that has been or is likely to be offered, he shall, on his making an application in that behalf to the Magistrate's Court having

Notice to persons to make claims to the compensation payable under this Law in respect of the whole or any part of the undertaking of any company vested in the Government by virtue of the operation of a vesting Order under this Part

Reference to the Tribunal for an award as to compensation in respect of the whole or any part of the undertaking of any company vested in the Government by virtue of the operation of a vesting Order under this Part.

Special powers for taking possession of property on behalf of the Government.

jurisdiction over the place where the property is kept or situated, be entitled to an Order of the Court directing the Fiscal to deliver possession of that property to him on behalf of the Government.

(2) Where an Order under subsection (1) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute that Order and shall in writing report to the Court the manner in which that Order was executed.

(3) For the purpose of executing an Order issued by a Magistrate's Court under subsection (2), the Fiscal or any person acting under his direction may use such force as may be necessary to enter any place where any movable property to which that Order relates is kept and seize such movable property, or to enter any land, building or other structure to which that Order relates and to eject any person in occupation thereof, and to deliver possession of such movable property, land, building or other structure to the person who is authorized to take possession thereof on behalf of the Government.

(3) The members, officers and servants of the Tribunal may be remunerated at such rates as shall be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

13. (1) The Secretary to the Tribunal shall, under the direction of the Chairman of the Tribunal, convene meetings of the Tribunal for the consideration and determination of references for awards as to compensation,

Meetings of the Tribunal.

(2) The Chairman shall preside at meetings of the Tribunal.

(3) A meeting of the Tribunal may from time to time be postponed or adjourned.

14. The Tribunal shall not consider and determine any reference for an award as to compensation, until it has forwarded a copy of such reference together with copies of all relevant documents to the Chief Valuer for his recommendations as to the compensation that should be paid in respect of the subject-matter of such reference, and has received such recommendations.

Recommendations of the Chief Valuer to be obtained.

PART III

COMPENSATION TRIBUNAL

12. (1) There shall be established, for the purposes of this Law, a Compensation Tribunal (in this Law referred to as "the Tribunal") consisting of the following members:—

- (a) the Chairman of the Tribunal, who shall be a person with judicial experience;
- (b) the Secretary to the Ministry, or any other officer of the Ministry; and
- (c) the Secretary to the Ministry charged with the subject of Finance, or any other officer of the Treasury.

(2) There shall be appointed a Secretary to the Tribunal and such other officers and servants as may be necessary for the performance of the work of the Tribunal.

15. (1) Every reference for an award as to compensation, shall be considered and determined at a meeting of the Tribunal.

Proceedings before the Tribunal.

(2) The Secretary to the Tribunal shall fix a date, time and place for the consideration and determination by the Tribunal of each reference for an award as to compensation.

(3) The Secretary to the Tribunal shall, in respect of every reference for an award as to compensation, keep a record of all such proceedings before the Tribunal as relate to that reference.

16. (1) The determination made at a meeting of the Tribunal on any matter considered at such meeting shall be deemed to be the determination of the Tribunal.

Determination of the tribunal.

(2) Every determination of the Tribunal shall contain the reasons therefor.

Constitution of Compensation Tribunal and appointment of Secretary, &c-

Procedure and practice before a Tribunal

17. The proceedings of the Tribunal shall as far as possible be free from the formalities and technicalities of the rules of procedure and evidence ordinarily or normally applicable to a court of law and may be conducted by the Tribunal in any manner not inconsistent with the principles of natural justice, which to the Tribunal may seem best adapted to elicit proof concerning the matters that are being investigated.

Provisions to be complied with by the Tribunal before making an award on a reference made to it

18. Where a reference for an award as to compensation is made to the Tribunal, the Tribunal shall, before making such award—

- (a) give every person who has made a claim to compensation an opportunity of being heard either in person or by an agent authorized in that behalf and also of adducing evidence in support of such claim; and

- (b) make available to such person or agent a copy of the recommendations of the Chief Valuer as to the amount of the compensation that shall be paid in respect of the subject-matter of the reference.

An award as to compensation by the Tribunal on a reference.

19. (1) Where a reference for an award as to compensation is made to the Tribunal

In respect of the property of any company which is vested in the Government, the Tribunal shall, after considering all such matters and hearing all such witnesses as may be necessary for the purpose and complying with the provisions of section 18, make an award determining—

- (a) whether or not each person who has made a claim to compensation is a person entitled to compensation, and if so, the capacity in which he is entitled;
- (b) the amount of the compensation payable in respect of such property ; and
- (c) the apportionment of the compensation among the persons entitled to compensation:

Provided, however, that where there is a dispute as to the persons entitled to such compensation or as to the apportionment of such compensation among the persons entitled to such compensation, the Tribunal shall defer making an award and shall refer the dispute for decision to the District Court of Colombo and shall, after such Court makes its decision on such dispute, make an award in accordance with such decision.

(2) The Tribunal shall cause written notice of its award to be given—

- (a) to the company in respect of whose property the award was made ; and
- (b) to the claimants to compensation.

(3) An award of the Tribunal shall be final and conclusive, and shall not be called in question in any court or tribunal.

20. Any compensation payable in respect of the whole or any part of the undertaking of any company which has vested in the Government under Part II, less any sum required by section 21 to be paid to any officer therefrom, shall be deposited by the Secretary to the Ministry charged with the subject of Finance with such company which shall pay such compensation to the persons entitled thereto.

Payment of compensation.

21. Where any compensation is payable in respect of the whole or any part of the undertaking of any company which has vested in the Government under Part II, the Secretary to the Ministry charged with the subject of Finance shall pay from the amount of such compensation—

Deductions from compensation.

- (a) to the Commissioner-General of Inland Revenue, any sum certified under the hand of the Commissioner-General of Inland Revenue to such Secretary to be due from such company as tax on income or profits, or as personal tax; and

- (b) to the Commissioner of Labour, any sum certified under the hand of the Commissioner of Labour to such Secretary to be due from such

company to any person employed in such undertaking—

- (i) as arrears of salary, provident fund contributions, gratuity or other monetary benefits,
- (ii) as moneys due on any order of a Labour Tribunal or any award of an arbitrator or an Industrial Court,
- (iii) as the sum due on any settlement reached by conciliation between such company and such person, or
- (iv) as the sum due on any settlement reached before such Commissioner between such company and such person.

PART IV

GENERAL

22. Where any undertaking carried on in Sri Lanka by any company registered or incorporated outside Sri Lanka (in this section referred to as "the foreign company") is transferred after the 19th day of June, 1974, to a company recognized as an "existing company", or incorporated, under the principal enactment (in this section referred to as "the Sri Lanka company")—

- (1) the provisions of the Termination of Employment of Workmen (Special Provisions) Act and any requirement pertaining to the giving of notice prior to the termination of employment of any workman, shall not apply to the termination of employment by the foreign company of any workman employed in such undertaking;
- (2) the Sri Lanka company shall continue to employ each workman employed in such undertaking in the same capacity in which he was employed immediately prior to such transfer and on terms and conditions not less favourable than those applicable to him immediately prior thereto, and shall pay him his wages

or remuneration and all other benefits which he would have otherwise received if he had continued to be employed by the foreign company;

- (3) for the purpose of the grant of pensions, gratuities, promotions or other benefits, the period of service of any such workman under the foreign company shall be regarded as service under the Sri Lanka company, and the continuity of service of any such workman shall not be deemed to have been interrupted by reason of the transfer of such undertaking ; and
- (4) the Sri Lanka company shall be liable to do all such other acts, matters and things including the payment of provident fund contributions in respect of each such workman as the foreign company would have been liable to do if such workman had continued to be employed by the foreign company.

23. The expenses incurred in the administration of this Law, including—

- (a) the remuneration of members, officers or servants of the Tribunal; and
- (b) the compensation payable under this Law to the persons entitled thereto,

shall be paid by the Secretary to the Ministry charged with the subject of Finance out of funds provided for the purpose by Parliament.

24. No suit or prosecution shall be—

- (a) against a competent authority for any act which in good faith is done or purported to be done by him under this Law; or
- (b) against any other person for any act which in good faith is done or purported to be done by such other person under this Law or on the direction of a competent authority—

Expenses of the administration of this Law.

Protection for action taken under this Law or on the direction of a competent authority.

Workmen employed in transferred undertakings.

Special provisions in respect of offences committed by bodies of persons.

25. Where an offence under this Law is committed by a body of persons, then,—

- (a) if the body of persons is a body corporate, every director and officer of that body corporate shall be deemed to be guilty of that offence;
- (b) if the body of persons is a firm, every partner of the firm shall be deemed to be guilty of that offence; and
- (c) if the body of persons is a body unincorporate, other than a firm, the president, manager, secretary and every officer of that body shall each be deemed to be guilty of that offence:

Provided, however, that no such person, shall be deemed to be guilty of an offence under this Law if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of that offence.

This Law to prevail over certain instruments and the principal enactment.

26. (1) The provisions of this Law shall have effect notwithstanding anything in any instrument governing, or applicable to, the formation or constitution of a company.

(2) In the event of any conflict or inconsistency between the provisions of this Law and the provisions of the principal enactment, the provisions of this Law shall prevail over the provisions of such enactment so however, that subject as hereinbefore provided, the provisions of such enactment shall continue to apply to a company.

Interpretation.

27. In this Law, unless the context

otherwise requires—

"company " includes any agency house and any business registered under the Business Names Ordinance ;

" competent authority ", in relation to the whole or any part of the undertaking of a company, means the person appointed by the Minister under section 7 to be a competent authority for the purpose of managing such undertaking or part thereof;

" Minister " means the Minister to whom the subject or function of the Companies Ordinance * has been assigned;

" Secretary to the Ministry " means the Secretary to the Ministry charged with the subject or function of the Companies Ordinance ;*

" principal enactment" means the Companies Ordinance, * as amended from time to time;

" property" means movable or immovable property but does not include shares in a company or choses in action;

" Treasury" means the department of Government known as the General Treasury;

" undertaking ", in relation to a company, means the business carried on by such company, and includes all the movable and immovable property and other assets of such company.

* Later repealed and replaced by the Companies Act, No. 17 of 1982 -See the 1985 Supplement to the Revised Edition.

CHAPTER 219

CONSUMER PROTECTION

Acts Nos.1 of 1979. 37 of 1980. AN ACT TO MAKE PROVISION FOR THE REGULATION OF INTERNAL TRADE; FOR THE PROTECTION OF THE CONSUMER; FOR THE ESTABLISHMENT OF FAIR TRADE PRACTICES. AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Parts I, II and IV — 1st January. 1979.]

Short title. 1. (1) This Act may be cited as the Consumer Protection Act.

(2) (a) The provisions of Parts I, II and IV of this Act shall come into operation on the first day of January, 1979.

(b) The provisions of Part III of this Act may be brought into operation from time to time by the President by Proclamation published in the Gazette. Upon the publication of such Proclamation, the provisions of the aforesaid Part shall, forthwith or on such later date as may be specified in that Proclamation, come into operation throughout Sri Lanka or in such part or parts of Sri Lanka as may be so specified and shall be in force for such period as may be specified in such Proclamation.

PART I

REGULATION OF TRADE

Appointment of officers. 2. (1) There may be appointed for the purposes of this Act by name or by office, a Commissioner of Internal Trade (hereinafter referred as the " Commissioner ").

(2) There may be appointed by name or by office such number of Deputy Commissioners and Assistant Commissioners of Internal Trade, and other officers as may be necessary for the purposes of this Act.

(3) Every Deputy Commissioner or Assistant Commissioner shall in the exercise of his powers, the discharge of his duties or the performance of his functions, be subject to the general direction and control of the Commissioner.

(4) Every Deputy Commissioner or Assistant Commissioner may subject to the general direction and control of the Commissioner, within the area of his jurisdiction exercise, discharge or perform all or any of the powers, duties or functions vested in, imposed upon, or assigned to, the Commissioner by or under this Act.

3. (I) The Commissioner may, in consultation with such persons as are in the opinion of the Commissioner, interested in the manufacture, importation, sale and consumption of any article, decide on a scheme of distribution of such article. The Commissioner may, in any such scheme of distribution, make provision requiring the labelling, price-marking and packeting of articles.

Scheme of distribution.

(2) Every such scheme of distribution shall be published in the Gazette and in at least one Sinhala, one Tamil and "ne English newspaper.

4. (1) The Commissioner may either on his own motion or on receipt of any complaint in writing inquire into the working of the scheme of distribution of any article.

Inquiries to working of the scheme of distribution.

(2) After any such inquiry the Commissioner may vary or adjust any such scheme of distribution. Such variation or adjustment shall be published as provided in section 3 (2).

(3) Any trader who contravenes any of the provisions of the scheme of distribution of any article shall be guilty of an offence under this Act.

(4) No prosecution of any trader under subsection (3) shall be instituted except with the sanction of the Commissioner.

Commissioner may undertake studies of distribution of articles, &c.

- 5. The Commissioner may—
 - (a) undertake such studies in respect of articles as would ensure the availability to the consumer of such articles of a satisfactory quality at reasonable price and in adequate quantities;
 - (b) promote, assist and encourage State or other organizations including organizations of consumers for the purposes described in paragraph (a); and
 - (c) assist and encourage associations of traders to enter into agreements with the Commissioner for the purposes described in section 10.

Commissioner to issue directions to manufacturers or traders in respect of price-marking, labelling and packing of articles.

- 6. (t) The Commissioner may, for the protection of the consumer, issue general directions to manufacturers or traders in respect of labelling, price-marking and packing of any article and may, likewise by general directions issued to any class of manufacturers or traders or by special directions issued to any particular manufacturer or trader, specify in relation to that class or that manufacturer or trader, as the case may be—
 - (a) the maximum quantity of any article to be sold on any day;
 - (b) the times during which and the places at which, such article may be sold; and
 - (c) any other conditions as to the manufacture, marketing, labelling or sale of that article.

(2) Every general direction issued by the Commissioner under subsection (1) shall be published in the Gazette and every special direction issued to any manufacturer or trader by the Commissioner under subsection (1) shall be in writing and shall be served on the manufacturer or trader to whom it is issued, and any such direction shall be deemed to be served on such manufacturer or trader if it is so sent by registered post addressed to him at his place of business. In proving such service by post, it shall be sufficient to prove that the document containing the direction was duly addressed and posted.

(3) Any manufacturer or trader who fails to comply with any direction issued under subsection (1) shall be guilty of an offence under this Act.

(4) Any person who removes, alters, obliterates, erases or defaces any label, description or price marked on any article shall be guilty of an offence under this Act.

7. Any person who sells or offers to sell any article above the price marked on the article under section 6 shall be guilty of an offence. Selling or offering to sell above the marked price.

8. (1) The Commissioner may inquire into complaints regarding the manufacture or sale of any article which does not conform to the standards and specifications determined by the Commissioner by notification published in the Gazette. Where any standards and specifications have been prescribed by the Bureau of Ceylon Standards in respect of any article, such standards and specifications shall be deemed to be the standards and specifications determined by the Commissioner for the purposes of this Act. Manufacture or sale of articles below the specified standard.

(2) Any complaint under subsection (1) shall be made to the Commissioner in writing so as to reach him within seven days of such sale.

(3) At any inquiry held into such complaint the Commissioner shall give the manufacturer or trader against whom such complaint is made an opportunity of being heard either in person or by an agent in that behalf.

(4) Where the Commissioner is of opinion, after inquiry, that a manufacture or sale has been made of an article not conforming to the standards or specifications determined or deemed to be determined by the Commissioner, he shall order the manufacturer or trader to pay compensation to the aggrieved party or to replace such article or to refund the amount paid for such article.

(5) An order under subsection (4) shall be made in writing and communicated to such manufacturer or trader by registered post.

Failure to comply with order an offence.

9. Where any manufacturer or trader fails or refuses to comply with an order made under subsection (4) of section 8, such manufacturer or trader shall be guilty of an offence under this Act.

Agreement to provide for maximum price, &c-

10. (1) The Commissioner may enter into such written agreements as he may deem necessary with any manufacturer, trader or association of manufacturers or traders to provide for—

- (a) the maximum price above which any article shall not be sold ;
- (b) the standard and specification of any article manufactured, sold or offered for sale ;
- (c) the maximum quantity of any article to be sold on any day;
- (d) the times during which, and the places at which, such article may be sold ; and
- (e) any other conditions as to the manufacture, marketing, labelling or sale of that article.

(2) Every written agreement entered into between the Commissioner and any manufacturer or trader or any association of manufacturers or traders under subsection (!) shall be binding on every authorized distributor of such manufacturer or trader and every member of such association as though he were a party to such agreement and whether or not he was a member at the time of agreement.

(3) Every manufacturer or trader or any authorized distributor of such manufacturer or trader or association or any member thereof who contravenes any provision of any agreement entered into with the Commissioner under subsection (1) shall be guilty of an offence under this Act.

(4) Every agreement entered into with the Commissioner under subsection (I) shall be registered with the Commissioner and shall contain a schedule giving the name and description of such authorized distributor of such manufacturer or trader or members of such association, as the case may be.

(5) Every agreement entered into with the Commissioner under subsection (1) shall come into force from the date of such agreement, unless such agreement provides that the agreement shall come into force on any subsequent date.

(6) Where the Commissioner thinks fit he may cause any agreement made under this section to be published in the Gazette. Where an agreement is published in the Gazette, the production of a copy of the Gazette in which such agreement is published may be produced in any court and shall until the contrary is proved, be proof of the contents of such agreement-

(7) For the purposes of any prosecution under this section a certificate given by the Commissioner that any person is an authorized distributor of any manufacturer or trader or is a member of any association of traders or manufacturers shall be prima facie proof in a court of law that such person is an authorized distributor or a member of such association.

11. (1) No trader who has in his possession or custody or under his control any article for the purposes of trade shall refuse to sell such article.

Refusal to sell articles to be an offence.

(2) In any prosecution of any trader for the contravention of the provisions of subsection (I), it shall be a sufficient defence for the accused to prove—

- (a) that on the occasion in question he supplied a reasonable quantity of the article, or had not a sufficient quantity in his possession to supply the quantity; or
- (h) that he carried on business in the article as a wholesale trader only, and that the sale of the quantity demanded by the buyer would have been contrary to the normal practice of a wholesale business ; or
- (c) that the sale of the article on that occasion in question would have been contrary to any provisions of any written law or any general or special direction issued to him under section 6.

Denial of possession of any article for purposes of trade or the sale of such article subject to any condition to be an offence.

12. No trader who has in his possession or custody or under his control any article for the purposes of trade shall

- (a) deny the possession of such article ; or
- (h) offer such article for sale subject to a condition requiring the purchase of any other article or the making of any payment in respect of any service or to any other condition other than the condition that the buyer shall pay the price of such article forthwith.

Hoarding of articles by any trader or person to be an offence

13. (I) No trader shall conceal in his place of business or in any other place any article in such quantity as is, in the opinion of the Commissioner, in excess of the normal personal requirement of such trader.

(2) No trader shall have in his possession or custody or under his control in his place of business or in any other place, any article in such quantity as is, in the opinion of the Commissioner, in excess of—

- (a) the quantity required for his personal consumption and of the members of the household; or
- (h) the requirements of the normal trading activity of such trader.

(3) No person other than a trader shall have in his possession or custody or under his control any article in such quantity as is, in the opinion of the Commissioner, in excess of the normal personal requirements of such person.

Sale of article above the controlled price to be an offence.

14. No trader shall sell any article at a price above the maximum retail or wholesale price, as the case may be, fixed in respect of such article by Order made or deemed to be made under section 20 of the National Prices Commission Law or any other written law.

Trader to display price list.

15. Every trader shall exhibit conspicuously in his place of business a notice specifying the maximum retail or wholesale price, as the case may be, of every article available for sale in his place of business.

16. Every trader who sells any article shall on demand, issue to the purchaser thereof a receipt setting out—

- (a) the date of the sale;
- (h) the quantity of such article sold ;
- (c) the price paid for such quantity; and
- (d) the nature of the transaction, that is to say, whether the sale was by wholesale or retail.

Trader to issue receipts to purchasers.

17. (1) Every trader shall provide in a conspicuous place in his place of business a notice board for the display of any notice, direction or warning issued by the Commissioner under this Act.

Trader to furnish notices board.

(2) Every trader shall affix or cause to be affixed on such notice board any notice, direction or warning issued to such trader by the Commissioner under this Act.

(3) Any person who removes, alters, obliterates, erases or defaces such notice, direction or warning other than a person acting under the direction or authority of the Commissioner shall be guilty of an offence.

18. No trader shall, in the course of a trade or business, engage in conduct that is misleading or deceptive.

Misleading or deceptive conduct.

19. Any trader who, in the course of a trade or business, in connexion with the supply or possible supply of goods or services or in connexion with the promotion by any means of the supply or use of goods or services: —

False representations.

- (a) falsely represents that, goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model; or
- (b) falsely represents that goods are new; or
- (c) represents that goods or services have sponsorship, approval, performance, characteristic accessories, uses or benefits they do not have; or

- (d) represents that such trader has a sponsorship approval or affiliation he does not have ; or
- (e) makes false or misleading statements concerning the existence of, or amounts of, price reduction ; or
- (f) makes false or misleading statements concerning the need for any goods, services, replacements or repairs ; or
- (g) makes false or misleading statements concerning the existence or effect of any warranty or guarantee,

shall be guilty of an offence under this Act.

Exclusive dealing.

20. (1) No trader shall, in the course of a trade or business except with the written approval of the National Prices Commission granted in the interest of the national economy, engage in the practice of exclusive dealing.

(2) A trader engages in the practice of exclusive dealing if such trader—

- (a) supplies any goods or services; or
- (b) charges a price for the supply of any goods or services ; or
- (c) gives or allows a discount, allowance, rebate or credit in relation to the supply of any goods or services,

on the condition, or subject to a contract, arrangement or understanding, that the person to whom such trader supplies goods or services—

- (i) will not, or will to a limited extent only, acquire goods or services from a competitor of such trader; or
- (ii) in the case where such trader supplies goods—
 - (aa) will not, or will to a limited extent only, supply any of the goods to particular persons or to persons included in a particular class of persons; or
 - (bb) will not, or will to a limited extent only, in particular places supply any of the goods to other persons; or

(d) requires, as the condition of the supply to a person of goods or services of a kind that he could not lawfully supply but for the issue or grant to the trader of a licence, permit, authority or registration under any written law, that the person acquire all or part of his requirements of other goods or services directly or indirectly from such trader; or

(e) requires, as a condition of the supply to a person of goods or services, that the person acquire all or a part of his requirements of other goods or services directly or indirectly from a second person.

21. (1) A trader shall not, in a trade or business, discriminate between purchasers of goods of like grade and quality in relation to—

Price discrimination.

- (a) the prices charged for the goods; or
- (b) any discounts, allowances, rebates or credits given in relation to the supply of the goods ; or
- (c) the provision of services or facilities in respect of the goods; or
- (d) the making of payments for services or facilities provided in respect of the goods,

if the discrimination is of such magnitude or is of such recurring or systematic character that it is likely to have the effect of substantially lessening competition in a market for goods, being a market in which the trader supplies, or those persons supply, goods.

(2) The provisions of subsection (1) shall not apply in relation to a discrimination if—

- (a) The discrimination makes only reasonable allowance for differences in the cost or likely cost of manufacture, distribution, sale or delivery resulting from the different places to which, methods by which or quantities in which goods are supplied to the purchasers; or

(b) the discrimination is constituted by the doing of an act in good faith to meet a price or benefit offered by a competitor of the supplier.

(3) In any proceeding for the contravention of the provisions of subsection (1), the burden of establishing that that subsection does not apply in relation to a discrimination by reason of subsection (2) is on the party asserting that subsection (1) does not so apply.

(4) A person shall not, in a trade or business—

(a) knowingly induce or attempt to induce a trader to discriminate in a manner prohibited by subsection (1); or

(b) enter into any transaction that to his knowledge would result in his receiving the benefit of a discrimination that is prohibited by that subsection.

(5) In any proceeding against a person for the contravention of subsection (4), it shall be a sufficient defence if that person establishes that he reasonably believed that by reason of subsection (2), the discrimination concerned was not prohibited by subsection (1).

(6) The National Prices Commission may, where it considers it expedient, in the interest of the national economy, exempt any trader from the application of the preceding provisions of this section to such trader.

22. (1) In every contract for the supply by a trader in the course of a business of services to a consumer there is an implied warranty that the services will be rendered with due care and skill and that any materials supplied in connexion with those services will be reasonably fit for the purpose for which they are supplied.

(2) Where a trader supplies services to a consumer in the course of a business and the consumer, expressly or by implication, makes known to the trader any particular purpose for which the services are required

or the result that he desires the services to achieve, there is an implied warranty that the services supplied under the contract for the supply of the services and any materials supplied in connexion with those services will be reasonably fit for that purpose or are of such a nature and quality that they might reasonably be expected to achieve that result, except where circumstances show the consumer does not rely, or that it is unreasonable for him to rely, on the trader's skill or judgment.

(3) In this section, services means services by way of—

(a) the construction, maintenance, repair, treatment, processing, cleaning or alteration of goods ; or

(b) the distribution of goods ; or

(c) the transportation of goods,

23. (1) A trader who, either by himself or with any other person, is in a position substantially to control a market for goods or services shall not take advantage of the power in relation to that market that he has by virtue of being in that position—

(a) to eliminate or substantially to damage a competitor in that market or in another market; or

(b) to prevent the entry of a person into that market or into another market; or

(c) to deter or prevent a person from engaging in competitive behaviour in that market or in another market.

(2) The National Prices Commission may, where it considers it expedient in the interest of the national economy, exempt any trader from the application of the preceding provisions of this section to such trader.

(3) For the purposes of this section, reference to a trader being in a position substantially to control a market for goods or services includes a reference to a trader who, by reason of his share of the market,

Warranties in relation to the supply of services.

or his share of the market combined with availability of technical knowledge, raw materials or capital, has power to determine the prices or control the production or distribution, of a substantial part of the goods or services in that market.

expiry of a period of fourteen days from the date of such order, or where an action has been instituted in respect of such order, until the final determination of such action by court.

PART II

SPECIAL POWERS OF COMMISSIONER

Commissioner to exercise special powers under certain circumstances.

24. f1) Notwithstanding anything in Parts I and IV of this Act, the Commissioner may, if he is satisfied after such inquiry as he may deem necessary that any person has contravened any of the provisions of this Act or any direction given thereunder or any Order made or deemed to be made under section 20 of the National Prices Commission Law or any of the provisions of the Weights and Measures Ordinance or the Control of Prices Act, in the case of the first contravention send to such person a warning in writing.

(2) A warning under subsection (1) shall be sent by the Commissioner by registered post.

PART III

SPECIAL POWERS OF MINISTER

Minister to exercise special powers under certain circumstances.

25. (1) Notwithstanding anything in this Act, the Minister may, if he is satisfied after such inquiry as he may deem necessary that any person has contravened any of the provisions of this Act or any Order made or deemed to be made under section 20 of the National Prices Commission Law or any of the provisions of the Weights and Measures Ordinance or the Control of Prices Act, order the forfeiture of all or any of the assets, movable or immovable, whether connected with his trade or business or not, of such person.

(2) Any person aggrieved by an order of forfeiture made under subsection (1), may within fourteen days of such order after giving notice in writing to the Minister that he intends to do so, institute action in the appropriate court in respect of such order.

(3) No order of forfeiture made under subsection (1) shall take effect until the

PART IV

GENERAL

26. The Commissioner shall have the power to call for any returns, balance sheets, accounting documents, inventories and other information whether relating to his business or not, from any manufacturer or trader if such information is deemed necessary by the Commissioner.

Power to call for documents.

27. (1) The Commissioner or Deputy Commissioner or Assistant Commissioner, or any public officer authorized in writing in that behalf by such Commissioner, Deputy Commissioner or Assistant Commissioner, shall, for the purpose of ascertaining whether the provisions of this Act or any regulation made thereunder are being complied with, have the power—

Power of entry, inspection and search.

(a) to enter, inspect and search at all reasonable hours of the day the premises in which any manufacturer or trader is carrying on his business or any other premises;

(b) to break open any door, vault, trunk, package or other place of storage which he may consider reasonably necessary to break open for the purpose of exercising his powers under this section;

(c) to seize any articles found in such premises in contravention of the provisions of section 13 ; and

(d) to inspect and take copies of any records required to be kept by or under this Act or any other law in respect of such business.

(2) Where any articles are seized under paragraph (f) of subsection (1), the Commissioner may, after such inquiry as he may deem necessary, order the forfeiture of such articles.

(3) Any person aggrieved by an order made under subsection (2), may, within fourteen days of such forfeiture, give notice in writing to the Commissioner that he intends to institute action in the appropriate Court against such forfeiture, and accordingly the provisions of section 25 shall, *mutatis mutandis*, apply in respect of such action.

Offences and penalties.

28. (1) Every person who acts in contravention of any of the provisions of this Act or any regulation made thereunder shall be guilty of an offence under this Act. Every person guilty of an offence under this Act shall, on conviction before a Magistrate, be liable—

- (a) in the case of a first offence to a fine not exceeding three thousand rupees or to imprisonment of either description for a period not exceeding three months or to both such fine and imprisonment; and
- (b) in the case of a subsequent offence to a fine not exceeding seven thousand five hundred rupees and to imprisonment of either description for a period not exceeding six months.

(2) The court which convicts any person of an offence under this Act may order the forfeiture of any article in respect of which the offence was committed.

(3) The court which convicts any person of an offence under this Act may make order that such person shall not carry on the business of selling or offering for sale any article in the course of any trade or business for such period as may be specified in such order.

(4) Any person who contravenes an order of court under subsection (3) shall be guilty of an offence under this Act.

(5) The Commissioner shall publish in such manner as he thinks fit, the name, address and description of every person in respect of whom an order under subsection (3) has been made by court.

Proceedings under this Act to have priority in court.

29. The proceedings in any court in respect of an offence alleged to have been committed by any person under this Act

shall have priority over all other business of that court,

30. Where an offence under this Act is committed by a body of persons then—

Liabilities of certain persons in respect of offences Committed by bodies corporate or unincorporate.

- (a) if the body of persons is a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of that body corporate; or
- (b) if the body of person is other than a body corporate, every person who at the time of the commission of the offence was a member of that body.

shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature, of his functions and in all the circumstances.

31. Where any offence under this Act is committed by an agent or servant of any manufacturer or trader, such offence shall be deemed to have been committed by such manufacturer or trader unless he proves that such offence was committed without his knowledge.

Principally liable for offences of agents and servants.

32. No suit or proceeding shall be instituted against any officer appointed under this Act for any act which is done in good faith or is purported to be done by him in the performance of his duties or the discharge of his functions under this Act.

Protection of officers

33. Where any person is convicted of any offence under this Act or where any article is seized and ordered to be forfeited under this Act, the Commissioner may pay—

Rewards to certain persons.

- (a) to the person who provided the information, leading to such conviction or the seizure and forfeiture of such article ; and
- (b) to any person who is concerned in the detection of such offence or effecting the seizure and forfeiture of such article,

such rewards as he may deem reasonable.

Consumer
Protection
Fund.
[§2,37 of
1980.]

33A. (1) A fund to be called the Consumer Protection Fund (hereafter in this section referred to as " the Fund ") is hereby established.

(2) There shall be paid into the Fund—

- (a) such sums of money as may be voted from time to time by Parliament for the purpose of consumer education or any purpose connected therewith or incidental thereto;
- (b) all fines imposed by the court for any offence under this Act;
- (c) fifty *per centum* of the proceeds of the sale of any articles forfeited under this Act; and
- (d) such sums of money as may be made by way of grant or donation to the Fund by any person or body of persons, whether corporate or unincorporate.

(3) There shall be paid out of the Fund such sums of money as the Commissioner may consider necessary—

- (a) for the promotion, assistance and encouragement of consumer organizations and the administration and development of such organizations; and
- (b) for consumer education and the dissemination of information relating thereto, and for any purpose connected with or incidental to the furtherance of such education.

(4) The Commissioner shall be responsible for the administration of the Fund.

(5) The accounts of the Fund shall be audited by the Auditor-General,

Regulations.

34. (1) The Minister may make regulations for giving effect to the principles and provisions of this Act.

(2) Every regulation made by the Minister shall be published in the Gazette and in one Sinhala, one Tamil and one English newspaper, and shall come into operation on the date of such publication or

on such later date as may be specified in such regulation.

(3) Every regulation made by the Minister shall as soon as convenient after its publication be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette and in one Sinhala, one Tamil and one English newspaper.

***37.** In this Act, unless the context otherwise requires— Interpretation.

" article " means any article of food, drink or merchandise as is, in the opinion of the Commissioner, essential to the life of the community and is so specified by the Commissioner by notification published in the Gazette;

" manufacturer " means any person who—

- (a) makes an article ;
- (b) assembles or joins any article whether by chemical process or otherwise; or
- (c) adapts for sale any article ;

" National Prices Commission" means the National Prices Commission established under section 2 of the National Prices Commission Law; and

" trader " means any person carrying on business as—

- (a) an importer of articles for the purposes of sale or supply;
- (b) an exporter of articles in pursuance of a contract of sale or supply, and includes
 - (i) a person who sells or supplies articles wholesale to any other traders; and
 - (ii) a person who sells or supplies articles at retail rates to consumers.

* Sections 35 and 36 are omitted, as the amendments made to the National Prices Commission Law by those sections have been incorporated in that Law,

CHAPTER 105

CIVIL PROCEDURE CODE

Ordinances

- Nos. 2 of 1889,
- 12 of 1895,
- 23 of 1901,
- 12 of 1904,
- 14 of 1907,
- 31 of 1909,
- 9 of 1917,
- 39 of 1921,
- 42 of 1921,
- 21 of 1927,
- 23 of 1927,
- 25 of 1927,
- 15 of 1930,
- 26 of 1930,
- 4 of 1940,
- 18 of 1944,
- 39 of 1945,

Acts

- Nos. 7 of 1949,
- 43 of 1949,
- 20 of 1954,
- 48 of 1954,
- 32 of 1957,
- 49 of 1958,
- 3 of 1960,
- 24 of 1961,
- 5 of 1964,
- 23 of 1969,
- 24 of 1969,

Laws

- Nos. 12 of 1973,
- 44 of 1973,
- 25 of 1975,
- 19 of 1977,
- 20 of 1977,

Act

- No. 53 of 1980.

AN ORDINANCE TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE PROCEDURE OF THE CIVIL COURTS.

[1st August, 1890.]

CHAPTER I

PRELIMINARY

being in force shall after this Ordinance comes into operation arise before any court, such court shall thereupon make application to the Court of Appeal for, and the Court of Appeal shall and is hereby required to give, such special orders and directions thereupon as the justice of the case shall require :

Short title.

1. This Ordinance may be cited as the Civil Procedure Code.*

Where no provision is made special directions to be given by Court of Appeal.

4.+ In every case in which no provision is made by this Ordinance, the procedure and practice hitherto in force shall be followed, and if any matter of procedure or practice for which no provision is made by this Ordinance or by any law for the time

Provided always that nothing in this Ordinance contained shall be held in any way to affect or modify any special rules of procedure which, under or by virtue of the

* The Civil Procedure Code No. 2 of 1889 was repealed by the Administration of Justice (Amendment) Law, No. 25 of 1975, with effect from 1st January, 1976. and was revived by section 2 of the Civil Courts Procedure (Special Provisions) Law. No. 19 of 1977. with effect from 15th December. 1977.

t Sections 2 and 3 are omitted, as they repeal previous laws relating to procedure in Courts, etc., and have taken effect.

provisions of any enactment, may have from time to time been laid down or prescribed to be followed by any civil court in Sri Lanka in the conduct of any action, matter, or thing of which any such court can lawfully take cognizance, except in so far as any such provisions are by this Ordinance expressly repealed or modified.

Interpretation. **5.** The following words and expressions in this Ordinance shall have the meanings hereby assigned to them, unless there is something in the subject or context repugnant thereto;—

"action" is a proceeding for the prevention or redress of a wrong;

[§2, Law 20 of 1977] "Attorney-General" includes the Solicitor-General, the Additional Solicitor-General and any State Counsel specially authorized by the Attorney-General to represent the Attorney-General;

"cause of action" is the wrong for the prevention or redress of which an action may be brought, and includes the denial of a right, the refusal to fulfil an obligation, the neglect to perform a duty and the infliction of an affirmative injury;

"civil court" means a court in which civil actions may be brought;

"counsel" means an attorney-at-law instructed by a registered attorney;

"court" means a Judge empowered by law to act judicially alone, or a body of Judges empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially;

"decree" means the formal expression of an adjudication upon any right claimed or defence set up in a civil court, when such adjudication, so far as regards the court expressing it, decides the action or appeal;

(An order rejecting a plaint is a decree within this definition.)

"foreign court" means a court situate beyond the limits of, and not having authority in, Sri Lanka;

"foreign judgment" means the judgment of a foreign court;

"Judge" means the presiding officer of a court and includes Judges of the Supreme Court and of the Court of Appeal, District Judges, Judges of Family Courts and Judges of Primary Courts; [§2, Law 20 of 1977]

"judgment" means the statement given by the Judge of the grounds of a decree or order;

"judgment-creditor" and "decree-holder" mean any person in whose favour a decree or order capable of execution has been made, and include any transferee of such decree or order;

"judgment-debtor" means any person against whom a decree or order capable of execution has been made;

"legal document" includes all processes, pleadings, petitions, affidavits, notices, motions and other documents, proceedings, and written communications; [§2, Law 20 of 1977-]

"order" means the formal expression of any decision of a civil court which is not a decree ;

"original court" includes District Courts, Family Courts and Primary Courts;

"Public Trustee" means the Public Trustee of Sri Lanka appointed under the Public Trustee Ordinance and includes a Deputy Public Trustee or any other state officer generally or specially authorized by the Public Trustee to act on his behalf; [§2, Law 20 of 1977!]

"recognized agent" includes the persons designated under that name in section 25 and no others;

[§2, Law 20 of 1977.] " registered attorney " means an attorney-at-law appointed under Chapter V by a party or his recognized agent to act on his behalf;

will only take effect in the event of his not showing any good cause against it on a day appointed therein for the purpose ;

[§2, Law 20 of 1977.] " Registrar" in relation to a court - includes an Additional, Deputy or Assistant Registrar;

(b) or a day is appointed by the court for entertaining the matter of the application on the evidence furnished, and notice is given to the defendant that he will be heard in opposition to it on that day if he thinks proper to come before the court for that purpose.

" signed " includes " marked " when the person making the mark is unable to write;

8. Save and except actions in which it is by this Ordinance or any other law specially provided that proceedings may be taken by way of summary procedure, every action shall commence and proceed by a course of regular procedure, as hereinafter prescribed. Procedure of action to be ordinarily regular. [§2,53 of 1980.]

[§2, Law 20 of 1977.] " the Island " and " this Island " means respectively the Island of Sri Lanka;

" written " and " writing " include " printed" and " print" and " lithographed " and " lithograph " respectively.

CHAPTER III

OF THE COURT OF INSTITUTION OF ACTION

PART I

OF ACTIONS IN GENERAL

CHAPTER II

GENERAL PROVISIONS

9. Subject to the pecuniary or other limitations prescribed by any law, action shall be instituted in the court within the local limits of whose jurisdiction— Institution of actions: in what court

Action. 6. Every application to a court for relief or remedy obtainable through the exercise of the court's power or authority, or otherwise to invite its interference, constitutes an action.

(a) a party defendant resides ; or

(b) the land in respect of which the action is brought lies or is situate in whole or in part; or

(c) the cause of action arises; or

Procedure of an action. 7. The procedure of an action may be either " regular " or " summary ".

(d) the contract sought to be enforced was made.

Illustrations

In actions of which the procedure is regular, the person against whom the application is made is called upon to formally state his answer to the case which is alleged against him in the application before any question of fact is entertained by the court, or its discretion thereon is in any degree exercised.

In actions of which the procedure is summary, the applicant simultaneously with preferring his application supports with proper evidence the statement of fact made therein; and if the court in its discretion considers that a prima facie case is thus made out—

(a) either the order sought is immediately passed against the defendant before he has been afforded an opportunity of opposing it, but subject to the expressed qualification that it

When it is alleged to be uncertain within the local limits of the jurisdiction of which of two or more courts any immovable property is situate, any one of those courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect, and thereupon proceed to entertain and dispose of any action relating to that property ; and its decree in the action shall have the same effect as if the property were situate within the local limits of its jurisdiction: When one of two or more courts may entertain an action.

Provided that the action is one with respect to which the court is competent as regards the nature and value of the action to exercise jurisdiction.

Of application for withdrawal and transfer of action. [§ 3, Law 20 of 1977.]

10. Any of the parties to an action which is pending in any original court may, before trial, and after notice in writing to the other parties of his intention so to do, apply to the Court of Appeal by motion, which shall be supported by affidavit setting out the grounds on which it is based, for the withdrawal of such action from the court in which it is pending and for the transfer of it for trial to any other court competent to try the same in respect of its nature and the amount or value of its subject-matter. And the Court of Appeal may, on any such application after hearing such of the parties as desire to be heard, and on being satisfied that such withdrawal and transfer are desirable for any of the following reasons;—

- (a) that a fair and impartial trial cannot be had in any particular court or place; or
- (b) that some question of law of unusual difficulty is likely to arise ; or
- (c) that it is expedient on any other ground,

withdraw any such action pending in any such court, and transfer it for trial to any other such court as aforesaid, upon any terms that the Court of Appeal shall think fit. When the action might have been instituted in any one of several courts, the balance of convenience only shall be deemed sufficient cause for such withdrawal and transfer to one of the alternative courts.

Stamp duty.

In no case in which any action is so transferred as aforesaid from one court to another shall any stamp fee be leviable in the court to which the action is transferred on any pleading or exhibit on which the proper stamp fee has been paid in the court from which the action is so transferred.

CHAPTER IV

OF PARTIES AND THEIR APPEARANCES, APPLICATIONS, AND ACTS

Plaintiffs.

11. All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative, in respect of

the same cause of action. And judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief for such relief as he or they may be entitled to, without any amendment of the plaint for that purpose. But the defendant though unsuccessful, shall be entitled to his costs occasioned by so joining any person who is not found entitled to relief, unless the court in disposing of the costs of the action otherwise directs.

12. Where two or more persons are entitled to the possession of immovable property as joint tenants or tenants in common, one or more of them may maintain an action in respect of his or their undivided shares in the property in any case where such an action might be maintained by all.

Where joint tenants or tenants in common.

13. Where an action has been instituted in the name of the wrong person as plaintiff, or where it is doubtful whether it has been instituted in the name of the right plaintiff, the court may at any stage of the action, if satisfied that the action has been so commenced through a bona fide mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person or persons, with his or their consent, to be substituted or added as plaintiff or plaintiffs, upon such terms as the court thinks just.

Substituted and added plaintiffs.

14. All persons may be joined as Defendants. defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative, in respect of the same cause of action. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

15. The plaintiff may, at his option, join as parties to the same action all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes.

Who may be joined as parties defendant.

16. Where there are numerous parties having a common interest in bringing or defending an action, one or more of such parties may, with the permission of the court, sue or be sued, or may defend in such

Where numerous parties, one may sue or defend for all.

Notice. an action on behalf of all parties so interested. But the court shall in such case give, at the expense of the party applying so to sue or defend, notice of the institution of the action to all such parties, either by personal service or (if from the number of parties or any other cause such service is not reasonably practicable, then) by public advertisement, as the court in each case may direct.

Misjoinder not to defeat action. **17.** No action shall be defeated by reason of the misjoinder or non-joinder of parties, and the court may in every action deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

Nothing in this Ordinance shall be deemed to enable plaintiffs to join in respect of distinct causes of action.

If the consent of anyone who ought to be joined as a plaintiff cannot be obtained, he may be made a defendant, the reasons therefor being stated in the plaint.

Parties improperly joined may be struck out. **18.** (1) The court may on or before the hearing, upon the application of either party, and on such terms as the court thinks just, order that the name of any party, whether as plaintiff or as defendant improperly joined, be struck out; and the court may at any time, either upon or without such application, and on such terms as the court thinks just, order that any plaintiff be made a defendant, or that any defendant be made a plaintiff, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in that action, be added.

Addition of parties. (2) Every order for such amendment or for alteration of parties shall state the facts and reasons which together form the ground on which the order is made. And in the case of a party being added, the added party or parties shall be named, with the designation " added party ", in all pleadings or processes or papers entitled in the action and made after the date of the order.

19. No person shall be allowed to intervene in a pending action otherwise than in pursuance of, and in conformity with, the provisions of the last preceding section. And no person shall be added as plaintiff, or as the next friend of a plaintiff, without his own consent thereto;

Provided however that any person on whose behalf an action is instituted or defended under section 16 may apply to the court to be made a party, and all parties whose names are so added as defendants shall be served with a summons in manner hereinafter mentioned, and the proceedings as against them shall be deemed to have begun only on the service of such summons. Except in cases under section 16.

20. The court may give the conduct of the action to such plaintiff as it deems proper. Conduct of the action

21. Where a defendant is added, the plaintiff shall, unless the court direct otherwise, be amended in such manner as may be necessary, and a copy of the amended plaintiff shall be served on the new defendant and on the original defendants. Amendment of plaintiff

22. All objections for want of parties, or for joinder of parties who have no interest in the action, or for misjoinder as co-plaintiffs or co-defendants, shall be taken at the earliest possible opportunity, and in all cases before the hearing. And any such objection not so taken shall be deemed to have been waived by the defendant- Objections for non-joinder or misjoinder to be taken before hearing.

23. When there are more plaintiffs than one, any one or more of them may be authorized by any other of them to appear, plead, or act for such other in any proceeding under this Ordinance; and in like manner, when there are more defendants than one, any one or more of them may be authorized by any other of them to appear, plead, or act for such other in any such proceeding. The authority shall be in writing signed by the party giving it, and shall be filed in court. Plaintiffs (or defendants) may authorize one of them to act for them.

CHAPTER V

OF RECOGNIZED AGENTS AND ATTORNEYS-AT-LAW

Appearances may be by party in person, his recognized agent, or attorney-at-law.

24. Any appearance, application, or act in or to any court, required or authorized by law to be made or done by a party to an action or appeal in such court, except only such appearances, applications, or acts as by any law for the time being in force only attorneys-at-law are authorized to make or do, and except when by any such law otherwise expressly provided, may be made or done by the party in person, or by his recognized agent, or by an attorney-at-law duly appointed by the party or such agent to act on behalf of such party :

Provided that any such appearance shall be made by the party in person, if the court so directs. An attorney-at-law instructed by a registered attorney for this purpose, represents the registered attorney in court.

Recognized agents.

25. The recognized agents of parties by whom such appearances and applications may be made or acts may be done are—

- (a) the Attorney-General, on behalf of the State in respect of any court; who is also authorized to depute his power of appointing a registered attorney on behalf of the State in respect to any court to any person by a written document to be signed by the Attorney-General, and to be filed in that court;
- (b) persons holding general powers of attorney from parties not resident within the local limits of the jurisdiction of the court within which limits the appearance or application is made or act done, authorizing them to make such appearances and applications, and do such acts on behalf of such parties; which power, or a copy thereof certified by an attorney-at-law or notary, shall in each case be filed in the court;
- (c) persons carrying on trade or business for and in the names of parties not resident within the local limits of

the jurisdiction of the court within which limits the appearance or application is made or act done, in matters connected with such trade or business only, where no other agent is expressly authorized to make such appearances and applications and do such acts.

[§4, Law 20 of 1977]

26. (1) Processes served on the recognized agent of a party to an action or appeal shall be as effectual as if the same had been served on the party 'in person, unless the court otherwise directs.

Processes served on recognized agent, effectual.

(2) The provisions of this Ordinance for the service of process on a party to an action shall apply to the service of process on his recognized agent.

27. (1) The appointment of a registered attorney to make any appearance or application, or do any act as aforesaid, shall be in writing signed by the client, and shall be filed in court; and every such appointment shall contain an address at which service of any process which under the provisions of this Chapter may be served on a registered attorney, instead of the party whom he represents, may be made.

Appointment of registered attorney.

(2) When so filed, it shall be in force until revoked with the leave of the court and after notice to the registered attorney by a writing signed by the client and filed in court, or until the client dies, or until the registered attorney dies, is removed, or suspended, or otherwise becomes incapable to act, or until all proceedings in the action are ended and judgment satisfied so far as regards the client.

(3) No counsel shall be required to present any document empowering him to act. The Attorney-General may appoint a registered attorney to act specially in any particular case or to act generally on behalf of the State.

28. If any such registered attorney as in the last preceding section is mentioned shall die, or be removed or suspended, or otherwise become incapable to act as aforesaid, at any time before judgment, no further proceeding shall be taken in the action against the party for whom he

Death or incapacity of registered attorney.

appeared until thirty days after notice to appoint another registered attorney has been given to that party either personally or in such other manner as the court directs.

make a new entry in the register and cancel the registration of the previous address.

Service on registered attorney.

29. Any process served on the registered attorney of any party or left at the office or ordinary residence of such registered attorney, relative to an action or appeal, except where the same is for the personal appearance of the party, shall be presumed to be duly communicated and made known to the party whom the registered attorney represents; and, unless the court otherwise directs, shall be as effectual for all purposes in relation to the action or appeal as if the same had been given to, or served on, the party in person.

(4) The fee for registration of the address for service or for a change of such address shall be fifty cents, with an addition of ten cents for each folio after the first in which the address is to be registered.

CHAPTER VI

OF THE SCOPE AND SUBJECT OF ACTION

Agent to accept service.

30. Besides the recognized agents described in section 25, any person residing within the jurisdiction of the court may be appointed an agent to accept service of process. Such appointment may be special or general, and shall be made by an instrument in writing signed by the principal, which shall contain an address at which such service may be made, and which, or, if the appointment be general, a duly attested copy thereof, shall be filed in court.

33.* Every regular action shall, as far as practicable, be so framed as to afford ground for a final decision upon the subjects in dispute, and so to prevent further litigation concerning them, Regular action, how to be framed.

34. (1) Every action shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the action within the jurisdiction of any court. Every action shall include whole claim.

No appointment under this section shall be of any force or effect for the purpose of enabling or authorizing process to be served on an agent so appointed in any action to recover money due upon the mortgage of immovable property.

(2) If a plaintiff omits to sue in respect of, or intentionally relinquishes any portion of, his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished. A person entitled to more than one remedy in respect of the same cause of action may sue for all or any of his remedies; but if he omits (except with the leave of the court obtained before the hearing) to sue for any of such remedies, he shall not afterwards sue for the remedy so omitted.

Agent to accept service in action upon mortgage of immovable property. [§2, Law 12 of 1973.]

30A. (I) The mortgagor of any immovable property may make application for the registration of the address of any registered attorney or any person for the service of process in any action upon the mortgage. The application shall be made substantially in the form No. 11A in the First Schedule.

(3) For the purpose of this section, an obligation and a collateral security for its performance shall be deemed to constitute but one cause of action.

Illustration

A lets a house to B at a yearly rent of Rs. 1,000. The rent for the whole of the two years 1886 and 1887 is due and unpaid. A sues B only for the rent due for one of those years. A shall not afterwards sue B for the rent due for the other year.

(2) The address for service shall be registered in or in continuation of the folio in which is registered the mortgage of the immovable property.

(3) Where the applicant declares in his application that a previously registered address is cancelled, the Registrar shall

* Sections 31 and 32 in Chapter V are repealed by Law No. 20 of 1977.

Joinder of claims in actions for immovable property.

35. (1) In an action for the recovery of immovable property, or to obtain a declaration of title to immovable property, no other claim, or any cause of action, shall be made unless with the leave of the court, except—

- (a) claims in respect of mesne profits or arrears of rent in respect of the property claimed;
- (b) damages for breach of any contract under which the property or any part thereof is held; or consequential on the trespass which constitutes the cause of action; and
- (c) claims by a mortgagee to enforce any of his remedies under the mortgage.

Example.—A sues B to recover land upon the allegation that the land belongs to C, and that he, A, has bought it of C. A makes C a party defendant; but he cannot, without leave of the court, join with this claim an alternative claim for damages against C for non-performance of his contract of sale.

In actions against executors, &c.

(2) No claim by or against an executor, administrator, or heir, as such, shall in any action be joined with claims by or against him personally unless the last-mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor, administrator, or heir, or are such as he was entitled to or liable for jointly with the deceased person whom he represents.

In other cases.

36. (1) Subject to the rules contained in the last section, the plaintiff may unite in the same action several causes of action against the same defendant or the same defendants jointly, and any plaintiffs having causes of action in which they are jointly interested against the same defendant or defendants may unite such causes of action in the same action.

Exception: court may order separation.

But if it appears to the court that an such causes of action cannot be conveniently tried or disposed of together, the court may, at any time before the hearing, of its own motion or on the application of any defendant, in both cases either in the presence of, or upon notice to,

the plaintiff, or at any subsequent stage of the action if the parties agree, order separate trials of any such causes of action to be had, or make such other order as may be necessary or expedient for the separate disposal thereof.

(2) When causes of action are united, the jurisdiction of the court as regards the action shall depend on the amount or value of the aggregate subject-matters at the date of instituting the action, whether or not an order has been made under the second paragraph of subsection (1).

37. Any defendant alleging that the plaintiff has united in the same action several causes of action, which cannot be conveniently disposed of in one action, may at any time before the hearing apply to the court for an order confining the action to such of the causes of action as may be conveniently disposed of in one action.

Application by defendant in such cases.

38. (1) If, on the hearing of such application, it appears to the court that the causes of action are such as cannot all be conveniently disposed of in one action, the court may order any of such causes of action to be excluded, and may direct the plaint to be amended accordingly, and may make such order as to costs as may be just.

Order of court thereon.

(2) Every amendment made under this section shall be attested by the signature of the Judge.

CHAPTER VII

OF THE MODE OF INSTITUTION OF ACTION

39. Every action of regular procedure shall be instituted by presenting a duly stamped written plaint to the court or to such officer as the court shall appoint in this behalf.

Regular action to commence by plaint. [§ 6, Law 20 of 1977.]

40. The plaint shall be distinctly written upon good and suitable paper, and shall contain the following particulars :—

Requisites of plaint [§7,law 20 of 1977]

- (a) the name of the court and date of filing the plaint;
- (b) the name, description, and place of residence of the plaintiff;

(c) the name, description, and the place of residence of the defendant so far as the same can be ascertained ,

(d) a plain and concise statement of the circumstances constituting each cause of action, and where and when it arose. Such statement shall be set forth in duly numbered paragraphs; and where two or more causes of action are set out, the statement of the circumstances constituting each cause of action must be separate, and numbered;

(e) a demand of the relief which the plaintiff claims; and

(f) if the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished,

If the plaintiff seeks the recovery of money, the plaintiff must state the precise amount, so far as the case admits. In an action for a specific chattel, or to establish, recover, or enforce any right, status, or privilege, or for mesne profits, or for the amount which will be found due to the plaintiff on taking unsettled accounts between him and the defendant, the plaintiff need only state approximately the value of the chattel, right, status, or privilege, or the amount sued for.

Land sued for to be described by metes and bounds or sketch.

41. When the claim made in the action is for some specific portion of land, or for some share or interest in a specific portion of land, then the portion of land must be described in the plaintiff so far as possible by reference to physical metes and bounds, or by reference to a sufficient sketch, map, or plan to be appended to the plaintiff, and not by name only.

Plaintiff suing in a representative character must show that the character has accrued to him.

42. When the plaintiff sues in a representative character, the plaintiff should show, not only that he has an actual existing interest in the subject-matter, but that he has taken the steps necessary to enable him to institute an action concerning it.

Illustrations

(a) A sues as B's executor. The plaintiff must state that A has proved B's will.

(b) A sues as C's administrator- The plaintiff must state that A has taken out administration to C's estate.

43. The plaintiff must show that the defendant is or claims to be interested in the subject-matter, and that he is liable to be called upon to answer the plaintiff's demand. Plaint must show defendant's interest and liability to be sued.

44. If the cause of action arose beyond the period ordinarily allowed by any law for instituting the action, the plaintiff must show the ground upon which exemption from such law is claimed. Exemption from bar from lapse of time to be shown.

45. Every plaintiff shall contain a statement of facts setting out the jurisdiction of the court to try and determine the claim in respect of which the action is brought. Jurisdiction of court to be averred.

46. (1) Every plaintiff presented by a registered attorney on behalf of a plaintiff shall be subscribed by such registered attorney. In every other case in which a plaintiff is presented, it shall be subscribed by the plaintiff; and his signature shall be verified by the signature of some officer authorized by the court in that behalf. Subscription of plaintiff

(2) Before the plaintiff (whether presented by the plaintiff or by a registered attorney in his behalf) is allowed to be filed, the court may, if in its discretion it shall think fit, refuse to entertain the same for any of the following reasons, namely:— Court may refuse to entertain plaintiff.

(a) if it does not state correctly, and without prolixity, the several particulars hereinbefore required to be specified therein;

(b) if it contains any particulars other than those so required ;

(c) if it is not subscribed, or subscribed and verified, as the case may be, as hereinbefore required;

(d) if it does not disclose a cause of action;

- (e) if it is not framed in accordance with section 33 ;
- (f) if it is wrongly framed by reason of non-joinder or misjoinder of parties, or because the plaintiff has joined causes of action which ought not to be joined in the same action,

and may return the same for amendment then and there, or within such time as may be fixed by the court, upon such terms as to the payment of costs occasioned by the amendment as the court thinks fit;

Provided that no amendment shall be allowed which would have the effect of converting an action of one character into an action of another and inconsistent character;

And may reject.

And provided further, that in each of the following cases, namely :—

- (g) where the relief sought is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so;
- (h) where the relief sought is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff on being required by the court to supply the requisite stamps within a time to be fixed by the court fails to do so;
- (i) when the action appears from the statement in the plaint to be barred by any positive rule of law;
- (j) when the plaint having been returned for amendment within a time fixed by the court is not amended within such time,

the plaint shall be rejected; but such rejection shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

Where plaint presented to wrong court.

47. In every case where an action has been instituted in a court not having jurisdiction by reason of the amount or

value involved, or by reason of the conditions made necessary to the institution of an action in any particular court by section 9 not being present, the plaint shall be returned to be presented to the proper court.

48. Every order returning or rejecting a plaint shall specify the date when the plaint was presented and so returned or rejected, the name of the person by whom it was presented and whether such person was plaintiff or registered attorney, and the fault or defect constituting the ground of return or rejection; and every such order shall be in writing signed by the Judge, and filed of record.

Order on rejection of plaint.

49. (1) The plaintiff shall endorse on the plaint, or annex thereto, a memorandum of the documents, if any, which he has produced along with it; and if the plaint is admitted, shall present as many copies on unstamped paper of the plaint as there are defendants, translated into the language of each defendant whose language is not the language of the court; unless the court, by reason of the length of the plaint or the number of the defendants or for any other sufficient reason, permits him to present a like number of concise statements of the nature of the claim made, or of the relief or remedy required in the action, in which case he shall present such statements.

Memorandum of documents to be endorsed on plaint. [§8, Law 20 of 1977.]

(2) If the plaintiff sues or the defendant or any of the defendants is sued in a representative capacity, such statement shall show in what capacity such plaintiff or defendant sues or is sued ; and the plaintiff may by leave of the court amend such statements so as to make them correspond with the plaint.

Such memorandum and copies or statements shall be examined by the Registrar of the court and signed by him if Sie finds them correct.

50. If a plaintiff sues upon a document in his possession or power, he shall produce it in court when the plaint is presented, and shall at the same time deliver the document or a copy thereof to be filed with the plaint.

Plaintiff to produce with plaint document sued on

To annex list of other documents.

51. If he relies on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall enter such documents in a list to be added or annexed to the plaint.

like jurisdiction within the local limits of whose jurisdiction the defendant resides, who shall cause the same to be duly served on the defendant, or on each defendant, if more than one, and shall as hereinafter provided, return the same and the execution thereof to the court, duly verified by the officer to whom the actual service thereof has been entrusted.

And to state where document not in his possession is.

52. In the case of any such document not being in his possession or power, he shall, if possible, state in whose possession or power it is.

Action on lost negotiable instrument.

53. In the case of any action founded upon a bill of exchange, promissory note, cheque, or any negotiable instrument, if it be proved that the instrument is lost, and if an indemnity be given by the plaintiff, to the satisfaction of the court, against the claims of any other person upon such instrument, the court may make such decree as it would have made if the plaintiff had produced the instrument in court when the plaint was presented, and had at the same time delivered a copy of the instrument to be filed with the plaint.

(2) (a) Every party to an action, not appearing by a registered attorney, shall on or before the date specified in the summons deliver to the Registrar a memorandum substantially in the form No. 16A in the First Schedule setting out an address (hereinafter referred to as the "registered address") for the service on him of the notice under section 80 and any other legal document required to be served on a party under the provisions of this Ordinance unless otherwise provided. Every party shall with such memorandum tender to the Registrar stamps to the value required to cover cost of service of such notice by registered post.

Document not produced with plaint inadmissible afterwards without leave, [§9, Law 20 of 1977.]

54. A document which ought to be produced in court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint, and which is not produced or entered accordingly, shall not, without the leave of the court, be received in evidence on his behalf at the hearing of the action.

(b) Where a party appears by a registered attorney the address of the registered attorney contained in his appointment shall be deemed to be the registered address of such party; and such registered attorney shall, on or before the date specified in the summons, tender to the Registrar stamps to the value required to cover cost of service by registered post, of the notice under section 80.

CHAPTER VIII

OF THE ISSUE AND SERVICE OF SUMMONS

Summons. [§10 Law 20 of 1977]

55. (1) Upon the plaint being filed and the copies or concise statements required by section 49 presented, the court shall order summons in the form No. 16 in the First Schedule to issue, signed by the Registrar of the court, requiring the defendant to answer the plaint on or before a day to be specified in the summons. The summons, together with such copy or concise statement each translated into the language of the defendant where his language is not the language of the court, attached thereto, shall be delivered under a precept from the court in the form No. 17 in the said Schedule, or to the like effect, to the Fiscal of the court or to the Fiscal of a court of

(c) The despatch by registered post to the registered address of a party of the notice under section 80, and of any other legal document required to be served on him shall be deemed to be sufficient service.

(d) The Registrar shall keep and maintain a list of the registered addresses furnished to him under this subsection, which list shall be filed as part of the record of the case.

SERVICE

Personal service of summons, what is.

59.* Subject to the several provisions as to service hereinafter in Chapter XXIII contained, service of the summons shall be made by delivering or tendering to the defendant personally a duplicate thereof.

Service to be personal if practicable ; otherwise as court may direct.

60. Whenever it may be practicable, the service of summons shall be made on the defendant in person ; but if, after reasonable exertion, the Fiscal is unable to effect personal service, he shall report such inability to the court in a fair-written return to the precept, having the summons attached thereto as an exhibit, and it shall be competent for the court, on being satisfied by evidence adduced before it that the defendant is within Sri Lanka, to prescribe any other mode of service as an equivalent for personal service :

Provided, however, that where such a return is made by the Fiscal in an action for the recovery of money due on the mortgage of immovable property, the court shall not under the preceding provisions of this section have the power to prescribe any other mode of service as an equivalent for personal service, but the following provisions shall apply whether or not the court is satisfied that the defendant is within Sri Lanka:—

- (a) if the court is satisfied upon a certificate filed in that behalf by the registered attorney for the plaintiff that the mortgagor has not registered an address for service under section 30A, or if such an address having been registered the court is satisfied that the Fiscal was unable to effect service on such agent under section 64A, the court shall upon application made by the plaintiff, order that copies of the summons in such language as the court may consider appropriate shall be affixed by the Fiscal in at least three conspicuous places upon the mortgaged property and at the court-house, and may in its discretion direct such other acts or things to be done as the court may

consider appropriate (including in a case where an address has been registered under section 30A, the sending of a copy of the summons by registered post to that address);

- (b) service effected in the manner specified in paragraph (a) shall be deemed to be service on the defendant.

61. The service substituted by order of the court shall be as effectual as if it had been made on the defendant personally.

Substituted service to be as effectual as personal.

62. Whenever service is substituted by order of the court, the court shall fix a day on or before which the defendant shall file his answer and comply with the other requirements of section 55.

Substituted service' [§10 Law 20 of 1977]

63. When there are more defendants than one, service of the summons shall be made on each defendant.

When more defendants than one, service on each.

64. When a defendant has an agent appointed under section 30 empowered to accept service, service of summons on such agent shall be sufficient. And in the case of an action against partners relative to a partnership transaction, or to an actionable wrong in respect of which relief is claimable from the partners, as a firm, each partner is an agent so empowered of each other partner, as is also the person (if any) not being a partner, who has the management of the business of the partnership at the principal place of such business within the local limits of the court's ordinary jurisdiction.

Agents to accept service;

partners, and manager.

Nothing in the preceding provisions of this section shall be deemed to authorize summons in an action to recover moneys due on a mortgage of immovable property to be served on any agent appointed under section 30.

64A. Where the mortgagor has registered the address of an agent under section 30A, service of summons may be made on such agent and shall be sufficient.

Service on agent in mortgage action.

* Sections 56, 57 and 58 are repealed by Law No. 20 of 1977.

<p>When defendant out of jurisdiction has manager within it.</p>	<p>65. In an action relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the court from which the summons issued, service on any manager or agent who at the time of the service personally carries on such business or work for such person within such limits shall be deemed good service; and for the purpose of this section the master of a ship is the agent of his owner or charterer.</p>	<p>70. Every order giving leave to effect such service shall direct the mode of service, and direct that the defendant shall, on or before the date specified in such summons, file his answer and comply with the other requirements of section 55.</p>	<p>Order for, to prescribe mode of. [§13, Law 20 of 1977.]</p>
<p>Service on agent in charge of immovable property.</p>	<p>66. In an action to obtain relief respecting or compensation for wrong to immovable property, if the service cannot be made on the defendant in person, and the defendant has no agent empowered to accept service, it may be made on any agent of the defendant in charge of the property.</p>	<p>71. A summons under sections 69 and 70 shall be in the form No. 18 in the First Schedule.</p>	<p>Form of summons.</p>

CHAPTER IX

OF FILING ANSWER

<p>Service on agent in charge of immovable property.</p>	<p>67. No misnomer or misdescription of any person or place in any such summons, order, or process shall vitiate the same, provided that the person or place be therein described as he or it is commonly known, and provided that such misnomer or misdescription be not such as to mislead the party served therewith.</p>	<p>72. If the defendant admits the claim of the plaintiff, the court shall give judgment against the defendant according to the admission so made. Such admission shall be in writing, signed by the defendant and his signature attested by an attorney-at-law.</p>	<p>[§14, Law 20 of 1977.] Judgment against defendant if he admits claim of the plaintiff. [§15, Law 20 of 1977.]</p>
<p>Misdescription noi to vitiate summons, &c.</p>	<p>68. If the defendant be in jail, the summons shall be delivered by the Fiscal to the officer in charge of the jail in which the defendant is confined, and such officer shall cause the summons to be served upon the defendant.</p>	<p>73. If the defendant does not admit the plaintiffs claim, he shall himself, or his registered attorney shall on his behalf, deliver to the court a duly stamped written answer.</p>	<p>Answer to be in writing. [§15, Law 20 of 1977.]</p>
<p>Service on defendant in jail.</p>	<p>69. Service of a summons out of Sri Lanka may be allowed by the court in all cases in which the court has jurisdiction. Every application for an order for leave to serve such summons on a defendant out of Sri Lanka shall be by motion and shall be supported by evidence (by affidavit or otherwise) showing in what place or country such defendant is or may probably be found, and the grounds on which the application is made.</p>	<p>75.* Every such answer shall be distinctly written upon good and suitable paper, shall be duly stamped, shall be subscribed by the defendant or his duly constituted representative as in the case of a plaint is provided for the plaintiffs subscription, or if he is represented by a registered attorney, by such registered attorney, and shall contain the following particulars:—</p>	<p>Requisites of answer- [§17, Law 20 of 1977]</p>
<p>Service out of Sri Lanka.</p>	<p>The summons shall be returned through the Fiscal to the court from which it is issued, with a statement of the service endorsed thereon, and signed by the officer in charge of the jail.</p>	<p>(a) the name of the court, the number of the case, and the date of filing the answer;</p> <p>(6) the name of the plaintiff;</p> <p>(c) the name, description, and residence of the defendant;</p> <p>(d) a statement admitting or denying the several averments of the plaint, and setting out in detail plainly and concisely the matters of fact and law, and the circumstances of the case upon which the defendant</p>	<p></p>
<p>Application for, how made.</p>	<p></p>	<p></p>	<p></p>

* Section 74 is repealed by Law No. 20 of 1977.

means to rely for his defence; this statement shall be drawn in duly numbered paragraphs, referring by number, where necessary, to the paragraphs of the plaint;

- (e) when the defendant sets up a claim in reconvention the answer must contain a plain and concise statement of the facts constituting the ground of such claim which the defendant makes in reconvention. A claim in reconvention duly set up in the answer shall have the same effect as a plaint in a cross action so as to enable the court to pronounce a final judgment in the same action both on the original and on the cross claim; but it shall not affect the lien upon the amount decreed of any registered attorney in respect of the costs payable to him under the decree.

Jurisdiction of court to be specially traversed.

76. If the defendant intends to dispute the averment in the plaint as to the jurisdiction of the court, he must do so by a separate and distinct plea, expressly traversing such averment.

Rejection and amendment of answer.

77. If any answer is substantially defective in any of the particulars hereinbefore defined, or is argumentative or prolix, or contains matter irrelevant to the action, the court may, by an order to be endorsed thereon, reject the same or return it to the party by whom it was made, for amendment within a time to be fixed by the court, imposing such terms as to costs or otherwise as the court thinks fit.

If the answer is rejected or left unamended as ordered, the defendant shall be regarded as having failed to file answer.

The order so endorsed shall specify the ground of the rejection.

Copy of answer to be delivered to plaintiff or his registered attorney. [§18, Law 20 of 1977.]

78. A copy of the answer shall be served on the plaintiff, or each of the plaintiffs, if more than one, or his or their registered attorney.

CHAPTER X

OF THE REPLICATION AND FURTHER PLEADINGS

79. Except in the case of a claim by a defendant in reconvention, no pleading after answer shall be filed except by order of court on special motion to be made after due notice to the other side, and before the day appointed for the hearing of the action, upon such terms as to costs and the postponement of the hearing of the action as the court shall think fit. Such order shall not be made (except in the case of a claim in reconvention on the part of the defendant) unless the court is satisfied on such motion that the real issues between the parties cannot be conveniently raised without such further pleading. All pleadings after answer shall be subject to the rules prescribed by section 75 relative to the form and substance of the answer, so far as the same can be made applicable, and copies of such pleadings shall be served on the opposite party or his registered attorney.

When replication may be allowed. [§19, Law 20 of 1977.]

CHAPTER XI

OF FIXING DAY OF TRIAL

80. (1) Forthwith on the expiration of the time allowed for the filing of the defendant's answer, or, where a replication is permitted, on the last day of the time allowed for filing such replication, and whether the same is filed or not, the court shall appoint a day for the case to be called in order to fix the day of trial of the action and shall give notice thereof in writing by registered post to all parties who have furnished a registered address and tendered the cost of service of such notice as provided by subsection (2) of section 55.

Day of trial. [§20, Law 20 of 1977]

(2) On the appointed day under subsection (1) of this section or where it appears to the court that the case is not ready for trial, on any later day to which the matter shall on that day have been postponed, the court shall fix the day of trial in open court.

(3) The court may subsequently on application made by either party and after hearing both parties, or after proof of notice

of motion to the absent party, direct that the day for the hearing of any case shall be advanced or deferred.

A reasonable number of cases to be fixed for each day.

81. The court shall, in fixing the day of hearing, be careful not to appoint more cases for one day than there is a probability of the court getting through on that day.

Postponement.

82. When any case is in its turn called on for hearing upon the day appointed therefor, the court may, for sufficient cause to be specified in its written order, direct that the hearing be postponed to a day which shall be fixed in the order, upon such terms as to costs or otherwise as the court shall think fit;

Provided that the court may in its discretion take and deal with a case out of its order in the cause list on any day for good reason to be adjudicated upon and recorded by the court before entering upon the case.

Undisposed of cases to be placed at the head of the roll.

83. (1) The cases in any day's cause list not disposed of on that day, by reason of want of time, will be placed at the head of the next court-day's cause list, unless the Judge directs otherwise.

[§21, Law 20 of 1977.]

(2) As soon as the cause list for any day is prepared, legibly-written copies of it in the language of the court and the language or languages of the parties shall be placed in some fit and conspicuous place outside the court-house, so that the suitors and all others interested may be enabled readily to be informed of the contents of the same.

CHAPTER XII

[§ 22, Law 20 of 1977.]

OF THE CONSEQUENCES AND CURE (WHEN PERMISSIBLE) OF DEFAULT IN PLEADING OR APPEARING

Default of defendant. [§23, Law 20 of 1977.]

84. If the defendant fails to file his answer on or before the day fixed for the filing of the answer, or on or before the day fixed for the subsequent filing of the answer or having filed his answer, if he fails to appear on the day fixed (or the hearing of

the action, and if the court is satisfied that the defendant has been duly served with summons, or has received due notice of the day fixed for the subsequent filing of the answer, or of the day fixed for the hearing of the action, as the case may be, and if, on the occasion of such default of the defendant, the plaintiff appears, then the court shall proceed to hear the case *ex pane* forthwith, or on such other day as the court may fix.

85 . (1) The plaintiff may place evidence before the court in support of his claim by affidavit, or by oral testimony and move for judgment, and the court, if satisfied that the plaintiff is entitled to the relief claimed by him, either in its entirety or subject to modification, may enter such judgment in favour of the plaintiff as to it shall seem proper, and enter decree accordingly.

procedure in ex parte trial [§23, Law 20 of 1977]

(2) Where the court is of opinion that the entirety of the relief claimed by the plaintiff cannot be granted, the court shall hear the plaintiff before modifying the relief claimed.

(3) Where there are several defendants of whom one or more file answer and another or others of whom fail to file answer, the plaintiff may move for judgment against such of the defendants as may be in default without prejudice to his right to proceed with the action against such of the defendants as may have filed answer. The provisions of this subsection shall apply notwithstanding that the defendants are jointly liable upon a bill of exchange, promissory note or cheque.

(4) The court shall cause a copy of the decree entered under this section to be served on the defendant in the manner prescribed for the service of summons. Such copy of the decree shall bear an endorsement that any application to set aside the decree under subsection (2) of section 86 shall be made to court within fourteen days of such service.

If defendant excuses his default, any order or judgment to be set aside. [§23, Law 20 of 1977.]

86.* (2) Where, within fourteen days of the service of the decree entered against him for default, the defendant with notice to the plaintiff makes application to and thereafter satisfies court, that he had reasonable grounds for such default, the court shall set aside the judgment and decree and permit the defendant to proceed with his defence as from the stage of default upon such terms as to costs or otherwise as to the court shall appear proper.

[§3,53 of 1980.]

(2A) At any time prior to the entering of judgment against a defendant for default, the court may, if the plaintiff consents, but not otherwise, set aside any order made on the basis of the default of the defendant and permit him to proceed with his defence as from the stage of default upon such terms as to costs or otherwise as to the court shall appear fit.

(3) Every application under this section shall be made by petition supported by affidavit.

Non-appearance of plaintiff. [§23, Law 20 of 1977.]

•87. (1) Where the plaintiff or where both the plaintiff and the defendant make default in appearing on the day fixed for the trial, the court shall dismiss the plaintiffs action.

(2) Where an action has been dismissed under this section, the plaintiff shall be precluded from bringing a fresh action in respect of the same cause of action.

(3) The plaintiff may apply within a reasonable time from the date of dismissal, by way of petition supported by affidavit, to have the dismissal set aside, and if on the hearing of such application, of which the defendant shall be given notice, the court is satisfied that there were reasonable grounds for the non-appearance of the plaintiff, the court shall make order setting aside the dismissal upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the action as from the stage at which the dismissal for default was made.

• Subsection (1) is repealed by Act No. 53 of 1980.

88. (1) No appeal shall lie against any judgment entered upon default.

No appeal against Judgment for default but order setting aside or refusing to set aside judgment appealable. [§23, Law 20 of 1977.]

(2) The order setting aside or refusing to set aside the judgment entered upon default shall be accompanied by a judgment adjudicating upon the facts and specifying the grounds upon which it is made, and shall be liable to an appeal to the Court of Appeal.

(3) The provisions of sections 761 and [§4,53 of 1980.] 763 shall, *mutatis mutandis*, apply to and in relation to the execution of a decree entered upon default, where an order refusing to set aside such decree has been made.

89. In the case of an action against two or more defendants alleged to be severally liable, where a summons is served upon any of them, the plaintiff may proceed against the person or persons served as if no other defendant were named in the summons. Where it is served upon all of them, the plaintiff may take judgment against one or more of them, where he would be entitled to judgment if the action was against him or them alone. Where judgment is so taken the plaintiff may proceed in the same action against the other defendants.

Where two or more defendants severally liable.

90. In the case of an action where there are more defendants than one, the court shall not be obliged to pass a decree for default against a defendant for failing to appear at a stage of the action, provided that one defendant at least appears at that stage against whom the action must proceed,

One of many defendants appearing, no decree for default need be passed against others.

CHAPTER XIII

OF MOTIONS

91. Every application made to the court in the course of an action, incidental * thereto, and not a step in the regular procedure, shall be made by motion by the applicant in person or his counsel or registered attorney, and a memorandum in writing of such motion shall be at the same time delivered to the court.

Motions [§23, Law 20 of 1977.]

Postponements, adjournments and extensions of time. [§25, Law 20 of 1977.]

91A. (1) Where a day is fixed or time appointed for doing any act or taking any proceeding by a party to the action, the court may, from time to time, upon the motion of such party and, if sufficient cause is shown, fix another day or enlarge or abridge the time appointed, upon such terms, if any, as to it may seem proper.

(2) The day may be refixed or the time enlarged although the application for the same is not made until after the expiration of the day or time fixed or appointed.

(3) The court may, for sufficient cause, either on the application of the parties or of its own motion, advance, postpone or adjourn the trial to any other date upon such terms as to costs or otherwise as to it shall seem proper.

(4) Where a date is fixed on or before which an act has to be done by a party to the action or a return has to be made to a commission issued by the court, the case shall be called in open court on such date for the purpose of making an appropriate order in connection therewith or relating thereto.

CHAPTER XIV

OF THE JOURNAL

Journal.

92. With the institution of the action the court shall commence a journal entitled as of the action, in which shall be minuted, as they occur, all the events in the course of the action, i.e., the original application, and every subsequent step, proceeding, and order; each minute shall be signed and dated by the Judge, and the journal so kept shall be the principal record of the action.

CHAPTER XV

OF AMENDMENT

Amendments of pleadings.

93. At any hearing of the action, or any time in the presence of, or after reasonable notice to, all the parties to the action before final judgment, the court shall have full power of amending in its discretion, and upon such terms as to costs and postponement of day for filing answer or replication or for hearing of cause, or

otherwise, as it may think fit, all pleadings and processes in the action, by way of addition, or of alteration, or of omission. And the amendments or additions shall be clearly written on the face of the pleading or process affected by the order; or if this cannot conveniently be done, a fair draft of the document as altered shall be appended to the document intended to be amended, and every such amendment or alteration shall be initialled by the Judge.

CHAPTER XVI

OF DISCOVERY, INSPECTION, PRODUCTION, IMPOUNDING, AND RETURN OF DOCUMENTS

94. (1) Any party may at any time Interrogatories. before hearing, by leave of the court to be obtained on motion *ex parte*, deliver through the court interrogatories in writing for the examination of the opposite party, or, where there are more opposite parties than one, any one or more of such parties, with a note at the foot thereof stating which of such interrogatories each of such persons is required to answer:

Provided that no party shall deliver more than one set of interrogatories to the same person without the permission of the court, and that no defendant shall deliver interrogatories for the examination of the plaintiff unless such defendant has previously tendered his answer, and such answer has been received and placed on the record.

(2) For the purposes of this Chapter, "opposite party", means a party between whom and the party interrogating an issue has been raised.

95. Interrogatories delivered under the last section shall be served on the registered attorney (if any) of the party interrogated, or in the manner hereinbefore provided for the service of summons, and the provisions herein contained with regard to service of summons shall, in the latter case, apply, so far as may be practicable.

Service of interrogatories.

96. The court, in adjusting the costs of the action, shall at the instance of any party, inquire, or cause inquiry to be made, into the propriety of delivering such

Cost of unreasonable interrogatories to be borne by party in fault.

interrogatories; and if it thinks that such interrogatories have been delivered unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories, and the answers thereto, shall be borne by the party in fault.

Interrogatories to company, &c.

97. If any party to an action is a body corporate or a company, whether incorporated or not, or any other body of persons empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply to the court for an order allowing him to deliver interrogatories to any member or officer of such corporation, company, or body, and an order may be made accordingly.

When party may refuse to answer.

98. Any party called upon to answer interrogatories, whether by himself or by any such member or officer, may refuse to answer any interrogatory on the ground that it is scandalous or irrelevant, or is not put bona fide for the purposes of the action, or that the answer will tend to criminate himself, or that the matter inquired after is not sufficiently material at that stage of the action, or on any other like ground.

To be answered by affidavit.

99. Interrogatories shall be answered by affidavit to be filed in court within ten days from the service thereof, or within such further time as the court may allow.

Application for further answer.

100. If any person interrogated omits or refuses to answer or answers insufficiently any interrogatory, the party interrogating may apply to the court for an order requiring him to answer or to answer further, as the case may be. And an order may be made requiring him to answer or to answer further, either by an affidavit or by viva voce examination, as the court may direct:

Provided that the court shall not require an answer to an interrogatory which in its opinion need not have been answered under section 98.

Notice to admit genuineness of documents

101. (1) Either party may, by a notice issued by order of court, to be obtained on motion *ex parte* within a reasonable time not less than ten days before the hearing, require the other party to admit (saving all

just exceptions to the admissibility of such document in evidence) the genuineness of any document material to the action.

(2) The admission shall also be made in writing, signed by the other party or his registered attorney, and filed in court.

(3) If such notice be not given, no costs of proving such document shall be allowed, unless the court otherwise orders.

(4) If such notice is not complied with within four days after its being served, and the court thinks it reasonable that the admission should have been made, the party refusing shall bear the expense of proving such document, whatever may be the result of the action.

102. (1) The court may, at any time during the pendency therein of any action, order any party to the action to declare by affidavit all the documents which are or have been in his possession or power relating to any matter in question in the action, and any party to the action may, at any time before the hearing, apply to the court for a like order.

Order for discovery of documents.

(2) Every affidavit made under this section shall specify which, if any, of the documents therein mentioned the declarant objects to produce, together with the grounds of such objection.

103. The court may, at any time during the pendency therein of any action, order the production by any party thereto of such of the documents in his possession or power relating to any matter in question in such action or proceeding as the court thinks right; and the court may deal with such documents when produced in such manner as appears just.

Order for production of documents.

103A. (1) In any action to which the State is a party, the State may also be required to make discovery or give inspection of documents.

State required to make discovery or give inspection of documents under certain circumstances. [§26, Law 20 of 1977.]

(2) The provisions of subsection (1) shall not prejudice the right of the State to withhold any document on the ground that in the opinion of the Minister in charge of

the subject to which the document relates, the public interest would suffer by such disclosure.

(c) that they are in the possession or power of the party against whom the application is made.

Notice to produce documents for inspection.

104. (1) Any party to an action may, at any time before or at the hearing thereof, by motion *ex parte*, obtain an order of court for notice to issue to any other party in whose pleadings or affidavits reference is made to any document, to produce such document for the inspection of the party giving such notice, or of his registered attorney, and to permit such party or registered attorney to take copies thereof.

108. If the party from whom discovery of any kind or inspection is sought objects to the same or any part thereof, and if the court is satisfied that the right of such discovery or inspection depends on the determination of any issue or question in dispute in the action, or that for any other reason it is desirable that any such issue or question should be determined before deciding upon the right to the discovery or inspection, the court may order that the issue or question be determined first, and reserve the question as to the discovery or inspection.

Court may reserve question as to discovery or inspection.

(2) No party failing to comply with such notice shall afterwards be at liberty to put any such document in evidence on his behalf in such action, unless he satisfies the court that such document relates only to his own title, or that he had some other and sufficient cause for not complying with such notice.

109. (1) If any party fails to comply with any order under this Chapter to answer interrogatories, or for discovery, production, or inspection, which has been duly served, he shall, if a plaintiff, be liable to have his action dismissed for want of prosecution, and if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not appeared and answered.

Consequence of not complying with order under this Chapter.

Time and place of such production to be specified by party receiving notice.

105. The party to whom such notice is given shall, within ten days from the receipt thereof, deliver through the court to the party giving the same a notice stating a time within three days from such delivery at which the documents, or such of them as he does not object to produce, may be inspected at his registered attorney's office or some other convenient place, and stating which, if any, of the documents he objects to produce, and on what grounds.

And the party interrogating or seeking discovery, production, or inspection may apply to the court for an order to this effect, and the court may make such order accordingly.

Otherwise, order for inspection to be made by court.

106. If any party served with notice under section 104 omits to give notice under section 105 of the time for inspection, or objects to give inspection, or names an inconvenient place for inspection, the party desiring it may apply to the court for an order of inspection.

(2) Any party failing to comply with any order under this Chapter to answer interrogatories, or for discovery, production, or inspection which has been served personally upon him, shall also be deemed guilty of the offence of contempt of court.

Application for order to be supported by affidavit.

107. Except In the case of documents referred to in any pleading or affidavit of the party against whom the application is made, or disclosed in his affidavit of documents, such application shall be founded upon an affidavit showing—

110. (1) The court may of its own accord, or in its discretion upon the application of any of the parties to an action, send for, either from its own records or from any other court, the record of any other action or proceeding, and inspect the same.

Court may inspect records of other courts.

- (a) of what documents inspection is sought,
- (b) that the party applying is entitled to inspect them, and

(2) Every application made under this section shall (unless the court otherwise directs) be supported by an affidavit of the applicant or his registered attorney, showing

how the record is material to the action in which the application is made, and that the applicant cannot, without unreasonable delay or expense, obtain a duly authenticated copy of the record or of such portion thereof as the applicant requires, or that the production of the original is necessary for the purposes of justice.

(3) Nothing in this section shall be deemed to enable the court to use in evidence any document which by the law of evidence in force in Sri Lanka would be inadmissible in the action.

Parties to be ready with all documents at trial.

111. The parties or their registered attorneys shall bring with them and have in readiness at the hearing of the action, to be produced when called for by the court, all the documentary evidence of every description in their possession or power, on which they intend to rely, and which has not already been filed in court, and all documents which the court at any time before such hearing has ordered to be produced.

Document called for and not produced shall not be received afterwards.

112. No documentary evidence in the possession or power of any party which should have been, but has not been, produced in accordance with the requirements of section 111, shall be received at any subsequent stage of the proceedings, unless good cause be shown to the satisfaction of the court for the non-production thereof. And the court on receiving any such evidence shall record its reason for so doing.

Documents to be received by court.

113. (1) The court shall receive the documents respectively produced by the parties at the hearing, provided that the documents produced by each party be accompanied by an accurate list thereof.

Rejection of irrelevant or inadmissible documents.

(2) The court may at any stage of the action reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.

No documents to be placed on record unless proved.

114. (1) No document shall be placed on the record unless it has been proved or admitted in accordance with the law of evidence for the time being in force.

(2) Every document so proved or admitted shall be endorsed with some number or letter sufficient to identify it. The Judge shall then make an entry on the record to the effect that such document was proved against or admitted by (as the case may be) the person against whom it is used, and shall in such entry refer to such document by such number or letter in such a way as to identify it with the document so proved or admitted. The document shall then be filed as part of the record.

Proved documents to be marked and filed.

(3) All documents produced at the hearing and not so proved or admitted shall be returned to the parties respectively producing them.

Documents which are not proved to be returned to parties.

115. Notwithstanding anything contained in section 114, the court may, if it sees sufficient cause, direct any document or book produced before it in any action to be impounded and kept in the custody of an officer of the court for such period and subject to such conditions as the court thinks fit.

Court may order any document to be impounded.

116. (1) When an action has been disposed of, or when the time for preferring an appeal from the decree has elapsed, or if an appeal has been preferred, then after the appeal has been disposed of, any person, whether a party to the action or not, desirous of receiving back any document produced by him in the action, and placed on the record, shall, unless the document is impounded under section 115, be entitled to receive back the same:

When document admitted in evidence may be returned.

Provided that a document may be returned at any time if the person applying for such return deliver to the proper officer a certified copy of such document to be substituted for the original;

And provided further, that no document shall be returned which by force of the decree has become void or useless.

Certain documents not to be returned.

(2) On the return of a document which has been admitted in evidence, a receipt shall be given by the party receiving it, in a receipt book to be kept for the purpose.

Receipt for returned documents.

Provisions as to documents apply to other material objects.

117. The provisions herein contained as to documents shall, so far as may be, apply to all other material objects producible as evidence.

- (a) a list of witnesses to be called by such party at the trial, and
- (b) a list of the documents relied upon by such party and to be produced at the trial,

TRANSLATIONS OF DOCUMENTS

Translations of documents,

118. No translation of any document tendered in evidence in any court shall be permitted to be read as a translation of such document, unless the same shall be signed by an interpreter of the Supreme Court, or the Court of Appeal, or by a Government sworn translator, or by a sworn translator or interpreter of some District Court, Family Court or Primary Court.

122. The party applying for a summons shall, before the summons is granted, and within a period to be fixed by the court, pay into court, or give security for payment of, such a sum of money as appears to the court to be sufficient to defray the travelling and other expenses of the person summoned, in passing to and from the court in which he is required to attend, and for one day's attendance:

Payment witness's expenses

Who shall be deemed a translator.

119. No person other than an interpreter of the Supreme Court, or the Court of Appeal, or a Government sworn translator, or an interpreter of a District Court, or Family Court or Primary Court, shall be deemed to be a translator of any court unless he shall have received a certificate from the Judge of such court that he is competent to fulfil the duties of a translator, and shall have taken an oath before such Judge faithfully to perform the duties of his office.

Provided that in the case of a witness residing within four miles of the court at which his attendance is required, no such payment shall be made nor security given;

Fees of translators.

120. No such translator as aforesaid shall be entitled to have or recover in respect of fees for any translation any sum of money in excess of the following rates, namely:—

And provided further that the making of any such payment and the giving of any such security shall in no case be a condition precedent to the issue of a summons, but in every case (except the case of a witness residing within four miles from the court) where summons issues without such payment having been made or security given, the witness shall be informed on the face of the summons that such is the case, and that it is not obligatory on him to attend.

[§27, Law 20 of 1977.]

For every folio of 120 words	..	Rs. 1. 25
For every fractional part of a folio	..	Rs. 1. 25

CHAPTER XVII

[§28, Law 20 of 1977.]

OF WITNESSES AND DOCUMENTS

Summonses to witnesses.

121. (1) The parties may, after the summons has been delivered for service on the defendant, obtain, on application to the court or to such officer as the court appoints in that behalf, before the day fixed for the hearing, summonses to persons whose attendance is required either to give evidence or to produce documents.

123. The sum so paid into court, or so secured, shall at least be paid or tendered to the person summoned at the time when he is called on to give his evidence, if he demands the same.

Witness's expenses to be paid before he gives evidence

Lists of witnesses and documents. [§29, Law 20 of 1977.]

(2) Every party to an action shall, not less than fifteen days before the date fixed for the trial of an action, file or cause to be filed in court after notice to the opposite party—

124. If it appears to the court or to such officer as it appoints in this behalf that the sum paid into court is not sufficient to cover such expenses, the court may direct such further sum to be paid to the person summoned as appears to be necessary on that account; and in case of default in payment, may, by writ issued to the Fiscal, order such sum to be levied by sequestration and sale of the movable property of the party obtaining the summons as is hereinafter provided; or the court may discharge the person summoned without

Court may order a sufficient sum to be paid.

requiring him to give evidence ; or may both order such levy and discharge such person as aforesaid.

summons on the defendant; and the rules contained in this Ordinance as to proof of service of summons on the defendant shall apply in case of all summonses served under this section.

Expenses of detention.

125. If it is necessary to detain the person summoned for a longer period than one day, the court may from time to time order the party at whose instance he was summoned to pay into court such sum as is sufficient to defray the expenses of his detention for such further period; and in default of such deposit being made, may, by writ issued to the Fiscal, order such sum to be levied by sequestration and sale of the movable property of the party at whose instance he was summoned ; or the court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

130. The service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the person summoned, to allow him a reasonable time for preparation and for travelling to the place at which his attendance is required.

Service must afford reasonable time for attendance.

131. (1) If the Fiscal returns to the court that the summons for the attendance of a person, either to give evidence or to produce a document, cannot be served, the court may take evidence touching the non-service.

Procedure to be followed when summons cannot be served.

Summons to specify time, place, and purpose of attendance.

126. (1) Every summons for the attendance of a person to give evidence or produce a document shall specify the time and place at which he is required to attend and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document which the person summoned is called on to produce shall be described in the summons with reasonable accuracy.

And upon being satisfied that such evidence or production is material, and that the person for whose attendance the summons has been issued is absconding, or keeping out of the way for the purpose of avoiding the service of summons, the court may in its discretion either issue a warrant for the apprehension of such witness or may issue a proclamation requiring him to attend to give evidence, or produce the document, at a time and place to be named therein; and a copy of such proclamation shall be affixed on the outer door of the house in which he ordinarily resides.

(2) If money has been deposited or security given for his expenses under the provisions of section 122, the summons shall contain a statement to that effect.

(2) If he does not attend at the time and place named in such proclamation, the court may in its discretion, at the instance of the party on whose application the summons was issued make an order for the sequestration of the property of the person whose attendance is required, to such amount as the court thinks fit, not exceeding the amount of the costs of sequestration and of the fine which may be imposed under section 133.

Proclaimed witness how dealt with.

Summons to produce document.

127. Any person may be summoned to produce a document without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced, instead of attending personally to produce the same.

Person in court may be required to produce a document.

128. Any person present in court may be required by the court to give evidence, or to produce any document then and there in his actual possession or power.

Service of summons.

129. Every summons to a person to give evidence or produce a document shall be served as nearly as may be in the manner hereinbefore prescribed for the service of

132. If, on the sequestration of his property, such person appears and satisfies the court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the court shall direct that the property be released from

If witness appears, sequestration may be withdrawn.

sequestration, and shall make such order as to the costs of the sequestration as it thinks fit.

Procedure when witness fails to appear.

133. If such person does not appear, or appearing, fails to satisfy the court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the court may impose upon him such fine, in the case of the Primary Court not exceeding fifty rupees, and in the case of the District Court not exceeding two hundred rupees, as the court thinks fit, having regard to his condition in life and all the circumstances of the case; and may order the property sequestered, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such sequestration, together with the amount of the said fine, if any:

Provided that if the person whose attendance is required pays into court the costs and the fine as aforesaid, the court shall order the property to be released from sequestration.

Court may summon and examine any person as witness.

134. Subject to the rules of this Ordinance as to attendance and appearance, if the court at any time thinks it necessary to examine any person other than a party to the action, and not named as a witness by a party to the action, the court may, of its own motion, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession, on a day to be appointed ; and may examine him as a witness, or require him to produce such document.

Person summoned must attend at time and place named in the summons.

135. Subject as last aforesaid, whoever is summoned to appear and give evidence in an action must attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document must either attend to produce it, or cause it to be produced, at such time and place.

When witness may depart.

136. No person so summoned and attending shall depart unless and until—

- (a) he has been examined or has produced the document and the court has risen; or

- (b) he has obtained the court's leave to depart.

137. (1) If any person on whom a summons to give evidence or produce a document has been served fails to comply with the summons, or if any person so summoned and attending departs in contravention of section 136, the court may order him to be arrested and brought before the court:

Witness may be arrested for non-compliance with summons.

Provided that no such order shall be made when the court has reason to believe that the person so failing had a lawful excuse for such failure.

(2) When any person so brought before the court fails to satisfy it that he had a lawful excuse for not complying with the summons, he shall be deemed to be guilty of the offence of contempt of court, and punishable therefor.

Non-compliance with summons without lawful excuse deemed to be contempt of court.

138. If any person so apprehended and brought before the court cannot, owing to the absence of the parties or any of them give the evidence or produce the document which he has been summoned to give or produce, the court may require him to give reasonable bail or other security for his appearance at such time and place as it thinks fit, and on such bail or security being given may release him.

Court may release arrested witness on bail.

139. If any person so failing to comply with a summons absconds or keeps out of the way, so that he cannot be apprehended and brought before the court, the provisions of sections 131, 132, and 133 shall, *mutatis mutandis*, apply.

Procedure when witness absconds.

140. If any party to an action being present in court refuses, without lawful excuse, when required by the court, to give evidence, or to produce any document then and there in his actual possession or power, the court may in its discretion either pass a decree against him, or make such other order in relation to the action as the court thinks fit, or may punish him as for a » contempt of court.

Court may pass decree against party refusing to give evidence.

141. (1) Whenever any party to an action is required to give evidence or produce a document, the rules as to witnesses contained in this Ordinance shall apply to him, so far as they are applicable.

Rules as to witnesses to apply to a party summoned to give evidence.

(2) Nothing in this Chapter contained shall be deemed in any way to contravene or affect the provisions of the Proof of Public Documents Ordinance except in so far as the same may be hereby expressly repealed or modified.

CHAPTER XIX

OF THE TRIAL

146. (1) On the day fixed for the hearing of the action, or on any other day to which the hearing is adjourned, if the parties are agreed as to the question of fact or of law to be decided between them, they may state the same in the form of an issue, and the court shall proceed to determine the same.

Determining of Issues-

Privilege from arrest of witness.

142. Any person duly and in good faith summoned or ordered to attend for the purpose of being examined in a case is privileged from arrest in a civil action or special proceeding while going to, remaining at, and returning from the place where he is required to attend.

CHAPTER XVIII

OF ADJOURNMENTS

Adjournments.

143. (1) The court may, if sufficient cause be shown, at any stage of the action grant time to the parties, or to any of them, and may from time to time adjourn the hearing of the action.

(2) In all such cases the court shall fix a day for the further hearing of the action, and may make such order as it thinks fit with respect to the costs occasioned by the adjournment:

Provided that, when the hearing of evidence has once begun, the hearing of the action shall be continued from day to day until all the witnesses in attendance have been examined, unless the court finds the adjournment of the hearing to be necessary for reasons to be recorded and signed by the Judge.

Non-appearance of a party on the adjourned day.

144. If on any day to which the hearing of the action is adjourned, the parties or any of them fail to appear, the court may proceed to dispose of the action in one of the modes directed in that behalf by Chapter XII, or make such other order as it thinks fit.

Default of party to carry out purpose of adjournment.

145. If any party to an action, to whom time has been granted, fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the action, for which time has been allowed, the court may, notwithstanding such default, proceed to decide the action forthwith.

(2) If the parties, however, are not so agreed, the court shall, upon the allegations made in the plaint, or in answer to interrogatories delivered in the action, or upon the contents of documents produced by either party, and after such examination of the parties as may appear necessary, ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to record the issues on which the right decision of the case appears to the court to depend.

(3) Nothing in this section requires the court to frame and record issues when the defendant makes no defence.

147. When issues both of law and of fact arise in the same action, and the court is of opinion that the case may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issue of law have been determined.

Trial of issues of law first

148. If the court is of opinion that the issues cannot be correctly framed without the examination of some person not before the court, or without the inspection of some document not produced in the action, it may adjourn the framing of the issue to a future day to be fixed by the court, and may compel the attendance of such person or the production of such document by summons or other process.

Adjournment for evidence.

149. The court may, at any time before passing a decree, amend the issues or frame additional issues on such terms as it thinks fit.

Amendment of Issues-

Party having right to begin to state his

150. The party having the right to begin shall state his case, giving the substance of the facts which he proposes to establish by his evidence.

Rules as to right to begin.

Explanation 1.—The plaintiff has the right to begin unless where the defendant admits the facts alleged by the plaintiff, and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to begin.

Explanation 2. —The case enunciated must reasonably accord with the party's pleading, i.e., plaint or answer, as the case may be. And no party can be allowed to make at the trial a case materially different from that which he has placed on record, and which his opponent is prepared to meet. And the facts proposed to be established must in the whole amount to so much of the material part of his case as is not admitted in his opponent's pleadings.

Party having right to begin to produce his evidence.

151. After stating his case in person, or by his registered attorney or counsel, the same party shall produce his evidence, calling his witnesses and by questions eliciting from each of them the relevant and material facts to which such witness can speak of his own observation.

Explanation.—The questions should be simple, and so framed as to obtain from the witnesses, as nearly as may be in a chronological order, a narrative of all the facts relevant to the matter in issue between the parties which he has witnessed—i.e., which he has in any manner directly observed or perceived, and no others. And on any disputed point the questions should not be such as to lead, or suggest, the answer; nor such as to induce a witness, other than an expert, to state a conclusion of his reasoning, an inference of fact, or a matter of belief, in the place of describing what he actually observed.

Also, a general request to a witness to tell what he knows, or to state the facts of the case, is, as a rule, not to be permitted, because it gives an opening for a prepared story.

Nothing in this explanation operates to prevent a witness from stating hearsay, or giving any opinion, where the hearsay or opinion is a relevant fact in the case.

Cross-examination.

152. After the examination-in-chief by the party who called the witness, the cross-examination of the same witness, if required, shall in like manner be effected by the opposite side, only that in this case leading questions may be put.

153. Then shall follow re-examination by the first side if required, for the purpose of enabling the witness to explain such answers given by him on cross-examination as may have left facts imperfectly stated by him, and to add such further facts as may have been suggested and made admissible by the cross-examination.

Re-examination.

Explanation.—During the course of the examination, cross-examination, and re-examination, the court ought not, as a general rule, to interfere, except when necessary for the purpose of causing questions to be put in a clear and proper shape, of checking improper questions and of making the witness give precise answers. At the end of it, however, if it has been reasonably well conducted, the court ought to know fairly the position of the witness with regard to the material facts of the case, and it should then put such questions to the witness as it may consider necessary to possess itself of all the detailed relevant facts to which the witness can speak from personal observation, or which bear upon his trustworthiness.

154. (1) Every document or writing which a party intends to use as evidence against his opponent must be formally tendered by him in the course of proving his case at the time when its contents or purport are first immediately spoken to by a witness. If it is an original document already filed in the record of some action, or the deposition of a witness made therein, it must previously be procured from that record by means of, and under an order from, the court. If it is a portion of the pleadings, or a decree or order of court made in another action, it shall not generally be removed therefrom, but a certified copy thereof shall be used in evidence instead.

Tender of documents in evidence.

(2) It shall not be competent to the court to admit in evidence the entire body of proceedings and papers of another action indiscriminately. Each of the constituent documents, pleadings, or processes of the former action, which may be required in the pending action, must be dealt with separately as above directed.

Records of other actions not to be admitted in bulk.

(3) The document or writing being admitted in evidence, the court, after marking it with a distinguishing mark or letter by which it should, when necessary, be ever after referred to throughout the trial,

Documents admitted to be read aloud in court.

shall cause it, or so much of it as the parties may desire, to be read aloud.

Explanation.—If the opposing party does not, on the document being tendered in evidence, object to its being received, and if the document is not such as is forbidden by law to be received in evidence, the court should admit it.

If, however, on the document being tendered the opposing party objects to its being admitted in evidence, then commonly two questions arise for the court :—

Firstly, whether the document is authentic—in other words, is what the party tendering it represents it to be; and

Secondly, whether, supposing it to be authentic, it constitutes legally admissible evidence as against the party who is sought to be affected by it.

The latter question in general is matter of argument only, but the first must be supported by such testimony as the party can adduce. If the court is of opinion that the testimony adduced for this purpose, developed and tested by cross-examination, makes out a prima facie case of authenticity and is further of opinion that the authentic document is evidence admissible against the opposing party, then it should admit the document as before.

If, however, the court is satisfied that either of those questions must be answered in the negative, then it should refuse to admit the document.

Whether the document is admitted or not it should be marked as soon as any witness makes a statement with regard to it; and if not earlier marked on this account, it must, at least, be marked when the court decides upon admitting it.

Procedure to be followed before witness is asked to identify document.

155. Before a witness is allowed to, in any way, identify a document, he should generally be made, by proper questioning, to state the grounds of his knowledge with regard to it.

Illustration

If the witness is about to speak to the act, or factum, of signature he should first be made to explain concisely the occurrences which led to his being present on the occasion of the signing; and if he is about to recognize a signature on the strength of his knowledge of the supposed signer's handwriting, he should first be made to slate the mode in which this knowledge was acquired.

156. The questioning for this purpose should be effected by the party who is seeking to prove the document; and the opposing party, if he desires to do so, should be allowed to interpose with cross-examination on this point before the document is shown to the witness. Cross-examination knowledge

157. It is the duty of the court, in the event of a witness professing to be able to recognize or identify writing, always to take care that his capacity to do so is thus tested, unless the opposite party admits it. Court to see witness thus tested.

158. If on the examination effected for this purpose it appears to the court that the witness was not in tact present at the time of signing, or is not reasonably competent to identify the handwriting, then the court shall not permit him to give his testimony on the matter of the signature. And to decide on his competency.

159. (1) The signature of a person, which purports or which appears by the evidence to have been written by the pen of another, is not proved until both the fact of the writing and the authority of the writer to write the name on the document as a signature is proved. Signature by a mark how proved

(2) Subsection (1) applies to the case where the signature is a mark explained by the name written adjacent thereto.

160. In the case of an illiterate person, who cannot read, it must also be proved that at the time when his name was written on, or his mark put to, the document, he understood the contents of it: Proof in the case of an illiterate person.

Provided that where the name of such illiterate person shall have been written on, or his mark put to, any document for the purpose merely of attesting the signature of another, it shall not be necessary to prove that he understood the contents of such document, but it shall be sufficient to prove that he was aware of the purpose for which his name was so written or his mark so put, and that the person whose signature he purports to attest was known to him.

161. When the document purports on the face of it to be so old that proof of the actual execution is not required by law, it is not proved until sufficient evidence has been Case of documents whose execution need not be proved.

given to prove both that it comes into court from the proper custody, and that it has continued to be in proper custody throughout the period during which it can be reasonably accounted for.

answers to such questions shall be made to appear on the face of the record as having been given to the court.

Copy of absent original how proved.

162. When the document, the admission of which is objected to, is put forward as the copy of an absent original, it is not proved until both such evidence as is sufficient to prove the correctness of the copy, and also such evidence as would be sufficient to prove the original, had it been tendered instead of the copy, has been given.

165. The court may also in its discretion recall any witness, whose testimony has been taken, for further examination or cross-examination, whenever in the course of the trial it thinks it necessary for the ends of justice to do so.

Court may recall witness.

166. The court may for grave cause, to be recorded by it at the time, permit a departure from the course of trial prescribed in the foregoing rules.

When may court permit departure from above rules.

Note.—The question whether a copy document is admissible in evidence between the parties in the place of the original is quite distinct from the question whether the document (original or copy) is admissible as evidence relevant to the issue under trial.

167. The evidence of the witnesses shall be given orally, as above prescribed, in open court in the presence and under the personal direction and superintendence of the Judge.

Evidence of witness to be given orally in open court.

On termination of beginning party's case the opposing party to state and prove his in like manner.

163. When the party beginning has stated his case and adduced his evidence in accordance with the foregoing rules, then the opposing party or parties (if there are more than one, who have distinct cases) shall in person, or by registered attorney or counsel, state his or their case or cases (and in the latter event in succession), and when the case of each opposing party has been so stated each such party shall adduce in order his evidence, oral and documentary, and the same shall be received and dealt with precisely as in the case of the party beginning, who shall then be entitled to reply. But where there are several issues, the burden of proving some of which lies on the other party or parties, the party beginning may at his option either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the opposing party or parties; and in the latter case the party beginning may produce evidence on those issues after the other party or parties has or have produced all his or their evidence, and such other party or parties may then reply specially on the evidence so produced by the party beginning, but the party beginning will in that case be entitled to reply generally on the whole case.

168. Witnesses professing to be Christians or Jews, who have discretion to understand the nature of an oath, shall be examined upon oath, unless they state that, according to their religious tenets or on other grounds they object to the taking of an oath, in which case they shall be examined on affirmation. Witnesses not professing to be Christians or Jews shall be examined on affirmation. The same rule shall apply to affidavits. And except when hereinafter otherwise expressly provided, the oath or affirmation shall be administered in open court.

Witness to be examined on oath or affirmation.

Reply.

When rebutting evidence is admissible.

169. The evidence of each witness shall be taken down in writing by the Judge, or in his presence and hearing and under his personal direction and superintendence. The evidence shall be taken down ordinarily in the form of a narrative.

Evidence of witness how taken down. [§ 30, Law 20 of 1977.]

170. The court may of its own motion or on the application of any party take down or cause to be taken down any particular question and answer, or any objection to any question, if there appear to the court any special reason for so doing.

Any particular question and answer may be taken down.

Court may question witness at any time.

164. The court may at any time, whether before or after the examination of a witness by the respective parties or during such examination, put and interpose such questions as it may consider conducive to the attainment of truth and justice. And the

171. If any question put to a witness be objected to, and the court allows the same to be put, the Judge may in his discretion take down in writing the question, the answer, the objection, and the name of the party making it, together with the decision of the court thereon.

The objection to question which is allowed and the decision of court thereon may be taken down.

The objection to question disallowed and the decision of court thereon to be taken down.

172. If on objection made the court refuses to allow the question to be put, the Judge shall, on the request of the questioner, take down in writing the question, the objection, and the name of the party making it, together with the decision of the court thereon.

(2) A document which is required to be included in the list of documents filed in court by a party as provided by section 121 and which is not so included shall not, without the leave of the court, be received in evidence at the trial of the action : [§31, Law 20 of 1977]

Court may record remarks on demeanour of witness.

173. The court may record such remarks as it thinks material respecting the demeanour of any witness while under examination.

Provided that nothing in this subsection shall apply to documents produced for cross examination of the witnesses of the opposite party or handed over to a witness merely to refresh his memory.

Witnesses may be kept out of court.

174. The witnesses on either side or on both or all sides shall, on motion of any of the parties, be kept out of court and of hearing, except the witness immediately under examination; nor shall any witness, who shall remain in court or within hearing after order made to that effect, be permitted to give evidence, unless in the case of a witness called to prove some fact which has incidentally become essential in the course of the trial, and the necessity of which could not reasonably have been anticipated. And every witness who has been examined shall be kept separate from, and shall be allowed no communication with, those who still remain to be examined :

176. The court may forbid any questions or inquiries which it regards as indecent or scandalous, although such questions or inquiries may have some bearing on the questions before the court, unless they relate to facts in issue or to matters necessary to be known in order to determine whether or not the fact in issue existed.

Court may forbid indecent or scandalous questions.

Provided that it shall be lawful for the court in its discretion to allow any witness to be examined, if it shall think such examination conducive to the attainment of truth or justice, notwithstanding that such witness shall have remained in court or within hearing contrary to such order aforesaid.

177. The court shall forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the court needlessly offensive in form.

Court shall forbid insulting questions.

178. (1) If a witness is about to leave the jurisdiction of the court, or if other sufficient cause is shown to the satisfaction of the court why his evidence should be taken immediately, the court may upon the application of either party or of the witness, at any time after the institution of the action and before trial, take the evidence of such witness in manner hereinbefore provided.

Evidence de bene esse.

(2) Where such evidence is not taken forthwith, and in the presence of the parties, such notice as the court thinks sufficient of the day fixed for the examination shall be given to the parties.

No witness to be called or document to be produced unless included in list of witnesses or documents.

175. (1) No witness shall be called on behalf of any party unless such witness shall have been included in the list of witnesses previously filed in court by such party as provided by section 121:

(3) The evidence so taken may be read at any hearing of the action, provided that the witness cannot then be produced.

Provided, however, that the court may in its discretion, if special circumstances appear to it to render such a course advisable in the interests of justice, permit a witness to be examined, although such witness may not have been included in such list aforesaid,

179. The court may at any time, for sufficient reason, order that any particular fact or facts may be proved by affidavit, or by depositions taken on commission, instead of by the testimony of witnesses given viva voce before it, or that the affidavit, or deposition taken on commission, of any witness may be read at the hearing of the action on such conditions as the court shall think reasonable ;

Evidence taken on affidavit or on commission.

Provided also that any party to an action may be called as a witness without his name having been included in any such list.

Provided that when it appears to the court that either party bona fide desires the production of a witness before the court for cross-examination viva voce, and that such witness can be so produced, an order shall not be made authorizing the evidence of such witness to be given otherwise than viva voce.

shall, after consultation with the assessors (if any), pronounce judgment in open court, either at once or on some future day, of which notice shall be given to the parties or their registered attorneys at the termination of the trial.

(2) On the day so fixed, if the court is not prepared to give its judgment, a yet future day may be appointed and announced for the purpose.

Court may examine witness viva voce notwithstanding affidavit or commission.

180. In the event of an order having been made for the proof of facts by affidavit, or by deposition taken on commission, the court may, nevertheless, at the instance of either party order the attendance of the declarant or deponent at the hearing of the action for viva voce cross-examination, if he is in Sri Lanka and can be produced.

185. A Judge may pronounce a judgment written by his predecessor, but not pronounced, Judge may pronounce judgment written by predecessor.

What statements may affidavit contain.

181. Affidavits shall be confined to the statement of such facts as the declarant is able of his own knowledge and observation to testify to, except on interlocutory applications in which statement of his belief may be admitted, provided that reasonable grounds for such belief be set forth in the affidavit.

186. The judgment shall be in writing and shall be dated and signed by the Judge in open court at the time of pronouncing it. Judgment to be in writing and to be dated and signed in open court. [§32, Law 20 of 1977.]

Petitions cannot be converted to affidavits.

182. A petition stating facts of observation and belief is not converted into an affidavit by the addition of a verifying clause, an affirmation or oath, to the effect that the statements in the petition are true.

186A. Where a Judge pronounces a judgment written by his predecessor but not pronounced as provided in section 185, such judgment shall, if such predecessor was a judicial officer within the meaning of Article 114(6) of the Constitution at the time such judgment was written, not be deemed to be invalid by reason only of the fact that such predecessor had no jurisdiction to write such judgment. Validation in certain circumstances of judgments pronounced by successors in office of Judges. [§2, 3 of I960.]

Who may administer oaths.

183. In the case of any affidavit under this Chapter—

- (a) any court, or Magistrate, or Justice of the Peace; or
- (b) any officer whom the Minister in charge of the subject of Justice may appoint for the purpose (and who shall be styled "Commissioner for Oaths ") may administer the oath to the declarant.

187. The judgment shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision; and the opinions of the assessors (if any) shall be prefixed to the judgment and signed by such assessors respectively. Requisites of Judgment

CHAPTER XX

JUDGMENT AND DECREE

Judgment when pronounced.

184. (I) The court, upon the evidence which has been duly taken or upon the facts admitted in the pleadings or otherwise, and after the parties have been heard either in person or by their respective counsel or registered attorneys (or recognized agents),

188. As soon as may be after the judgment is pronounced, a formal decree bearing the same date as the judgment shall be drawn up by the court in the form No. 41 in the First Schedule or to the like effect, specifying in precise words the order which is made by the judgment in regard to the relief granted or other determination of the action. The decree shall also state by what parties and in what proportions costs are to be paid, and in cases in the Primary Courts shall state the amount of such cost. The decree shall be signed by the Judge. Decree.

Amendment of Judgments, decrees and orders.

189. (1) The court may at any time, either on its own motion or on that of any of the parties, correct any clerical or arithmetical mistake in any judgment or order or any error arising therein from any accidental slip or omission, or may make any amendment which is necessary to bring a decree into conformity with the judgment.

(2) Reasonable notice of any proposed amendment under this section shall in all cases be given to the parties or their registered attorneys.

Requisites of decree relating to immovable property. [§33, Law 20 of 1977.]

190. Where the decree relates to immovable property the property affected thereby shall be described therein by the boundaries and in such other manner by reference to surveys or otherwise as may secure, as far as possible, correctness of identification; and the description shall be in such form as to enable such decree to be registered under the Registration of Documents Ordinance.

Requisites of decree relating to movable property.

191. When the action is for movable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative, if delivery cannot be had.

At what rate may interest on money be decreed. [§5, 53 of 1980.]

192. (1) When the action is for a sum of money due to the plaintiff, the court may, in the decree order interest according to the rate agreed on between the parties by the instrument sued on, or in the absence of any such agreement at the rate of twelve *per centum* per annum to be paid on the principal sum adjudged from the date of the action to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the action, with further interest at such rate on the aggregate sum so adjudged, from the date of the decree to the date of payment, or to such earlier date as the court thinks fit.

(2) When such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the court shall be deemed to have refused such interest, and a separate action therefor shall not lie.

193. When the action is for damages for breach of contract, if it appear that the defendant is able to perform the contract, the court, with the consent of the plaintiff, may decree the specific performance of the contract within a time to be fixed by the court, and in such case shall award an amount of damages to be paid as an alternative if the contract is not performed.

When may court decree specific performance.

194. In all decrees for the payment of money, except money due on mortgage of movable or immovable property, the court may order that the amount decreed to be due shall be paid by instalments, with or without interest, and the court may in its discretion impose such terms as it may think fit as to giving security for the payments so to be made:

When may court decree payment by instalments.

Provided always that on failure to pay the first or any other instalment, the whole amount or any balance then due shall on such failure become immediately payable;

Provided also, that if the party ordered to pay by instalments shall appeal against the decree, and the appeal shall be decided against him, his right to pay by instalments shall cease, and the whole amount shall be immediately payable, unless the Court of Appeal or the Supreme Court, as the case may be, give express direction to the contrary;

Provided also, that no appeal shall lie against the refusal of the court to make an order for payment by instalments.

195. If the defendant shall have been allowed to set off any demand against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and the mandatory part of the decree shall be for the recovery of any balance which shall on that statement appear to be due to either party. The decree of the court with respect to anything awarded to the defendant on any matter on which the defendant obtains judgment by set-off or in reconvention, shall be to the same effect, and be subject to the same rules, as if such thing had been claimed by the defendant in a separate action against the plaintiff.

Decree when set-off or claim in reconvention is allowed.

Decree when claim in respect of mesne profits from date of action is allowed. [§6, 53 of 1980.]

196. When the action is for the recovery of the possession of immovable property, yielding rent or other profit, the court may, whenever the prayer of the plaint asks for damages in respect of mesne profits or rent, provide in the decree for the payment of money in lieu of mesne profits or rent in respect of such property from the date of the institution of the action until the delivery of possession to the party in whose favour the decree is made, with interest thereon at such rate not exceeding twelve *per centum* as the court thinks fit.

Explanation:— " Mesne profits " of property mean those profits which the person in wrongful possession of such property actually received, or might, with ordinary diligence, have received therefrom.

Mesne profits prior to date of action.

197. When the action is for the recovery of possession of immovable property and for mesne profits which have accrued thereon during a period prior to the institution of the action, the court may either determine the amount and make an order for the payment thereof additional to and embodied in the decree itself, or may pass a decree for the property and reserve the inquiry into the amount of mesne profits to be entered upon after the execution of the decree for the property, as may appear most convenient.

Interlocutory order for accounts.

198. When the action is for an account of any property and for its due administration under the decree of the court, the court, before making the final decree between the parties, shall order such accounts and inquiries to be taken and made, and give such other directions, as it thinks fit.

Administration by the court.

199. In the administration by the court of the property of any person who dies after this Ordinance comes into force, if such property proves to be insufficient for the payment in full of his debts and liabilities, the same rules shall be observed as to the respective rights of secured and unsecured creditors, and as to debts and liabilities provable, and as to the valuation of annuities and future and contingent

liabilities respectively as may be in force for the time being with respect to the estates of persons adjudged insolvent.

And all persons who in any such case would be entitled to be paid out of such property may come in under the decree for its administration and make such claims against the same as they may respectively be entitled to by virtue of this Ordinance.

200. When the action is to enforce a right of pre-emption in respect of a particular sale of property, and the court finds for the plaintiff, if the amount of purchase money has not been paid into court, the decree shall specify a day on or before which it shall be so paid, and shall declare that on payment of such purchase money, together with the costs (if any) decreed against him, the plaintiff shall obtain possession of the property, but that if such money and costs are not so paid on or before such day or any extension thereof which shall have been allowed for good cause shown, the action shall stand dismissed with costs.

Decree in action for pre-emption &c

202*. When the action is for the dissolution of partnership, the court before making its decree may pass an order fixing the day on which the partnership shall stand dissolved, and directing such accounts to be taken and other acts to be done as it thinks fit.

Interlocutory order in action for dissolution of partnership.

203. When the action is for an account of pecuniary transactions between principal and agent, and in all other actions not hereinbefore provided for, where it is necessary in order to ascertain the amount of money due to or from any party that an account should be taken, the court shall before making its decree pass an order directing such account to be taken as it thinks fit.

Suit for account between principal and agent.

204. When a decree or order made at the hearing of the action is such as to have the effect of postponing the further hearing and the final determination of the action, as for instance a decree for the taking of accounts, or an order for the issue of a commission to take evidence, or of a

Decree or order postponing hearing.

* Section 201 is repealed by Ordinance No. 21 of 1927.

commission to divide by metes and bounds, it shall specify the time at which the further hearing of the action shall be proceeded with.

209. When disposing of any application or action under this Ordinance, whether of regular or of summary procedure, the court may, unless elsewhere in this Ordinance otherwise directed, give to either party the costs of such application or action, or may reserve the consideration of such costs for any future stage of the proceedings; any order for the payment of costs only is a decree for money within the provisions of section 194 as to payment by instalments.

Court always to have power to give or reserve costs.

Any person entitled to certified copies of decree and judgment.

205. Upon being paid such fee as the court shall from time to time determine, the Registrar of the court shall at all times furnish to any person applying for the same, and supplying the necessary stamp, copies of the proceedings in any action, or any party thereof, or upon such application and production of such stamp shall examine and certify to the correctness of any such copies made by such person.

210. The decree or order shall direct by whom the costs of each party are to be paid, and whether in whole or in what part or proportion.

Court shall direct by whom costs to be paid.

Decree or copy to be primary evidence of decision-

206. The decree or such certified copy thereof shall constitute the sole primary evidence of the decision or order passed by the court.

211. The court shall have full power to give and apportion costs of every application and action in any manner it thinks fit, and the fact that the court has no jurisdiction to try the case is no bar to the exercise of such power:

Court may apportion costs.

Decrees must be decisive, and must not direct non-suit.

207. All decrees passed by the court shall, subject to appeal, when an appeal is allowed, be final between the parties; and no plaintiff shall hereafter be non-suited.

Explanation.—Every right of property, or to money, or to damages, or to relief of any kind which can be claimed, set up, or put in issue between the parties to an action upon the cause of action for which the action is brought, whether it be actually so claimed, set up, or put in issue or not in the action, becomes, on the passing of the final decree in the action, a *res adjudicata*, which cannot afterwards be made the subject of action for the same cause between the same parties.

Provided that if the court directs that the costs of any application or action shall not follow the event, the court shall state its reasons in writing.

CHAPTER XXI

OF COSTS

Costs.

208. Under the denomination of costs are included the whole of the expenses necessarily incurred by either party on account of the action and in enforcing the decree passed therein, such as the expense of stamps, of summoning the defendants and witnesses, and of other processes, or of procuring copies of documents, fees and charges of counsel and registered attorneys, such just and reasonable charges as appear to have been properly incurred in procuring evidence and the attendance of witnesses, and expenses of commissioners either in taking evidence or in local investigations, or in investigations into accounts; and all of other expenses of procuring and adducing necessary evidence.

212. The court may direct that the costs payable to one party by another shall be set off against a sum which is admitted or is found in the action to be due from the former to the latter.

Set-off of costs.

But such direction shall not affect the lien upon the amount decreed of any registered attorney in respect of the costs payable to him under the decree.

213. The court may give interest on costs at any rate not exceeding twelve *per centum* per annum, and may direct that costs, with or without interest, be paid out of, or charged upon, the subject-matter of the action.

Court may give interest on costs. [§7, 53 of 1980]

[§34, Law 20 1977.]

214. All bills of costs, whether between party and party or between registered attorney and client, shall be taxed by the Registrar of the court according to the rates specified in the Second Schedule; and if either party is dissatisfied with this taxation, the matter in dispute shall be referred to the court for its decision, and the decision of the court in review of taxation of costs shall

Costs to be taxed.

(except when it is the decision of the Court of Appeal) be liable to an appeal to the Court of Appeal.

or it may, without affording any substantive relief or remedy—

(G) declare a right or status.

Action for costs by registered attorney.

215. No registered attorney shall commence or maintain any action for the recovery of any fees, charges, or disbursements at law until the expiration of one month or more after he shall have delivered unto the party charged therewith, or left with him at his dwelling house or last known place of abode, a bill of such fees, charges and disbursements subscribed by such registered attorney. And after such delivery or service thereof, either the registered attorney or party charged therewith may obtain an appointment from the taxing officer for the taxation thereof; and if either party shall fail to attend, and the taxing officer is satisfied that such party has received due notice of the appointment, the taxation shall proceed in his absence.

And the method of procedure to be followed, when necessary, by the person party to the action in whose favour the decree or order is made, hereinafter called the "decree-holder" or "judgment-creditor", in order to enforce satisfaction or execution of the decree in each case respectively by the person party to the action against whom the decree is made, hereinafter called "the judgment-debtor", is that which is next hereinafter specified according to the above distinguishing heads.

Registered attorney to bear costs of taxation in what case.

216. If more than one-sixth of the amount of any bill of costs is disallowed by the taxing officer, the registered attorney shall bear the expense of taxation.

(A)
EXECUTION OF DECREE TO PAY MONEY

218. When the decree falls under head (A) and is unsatisfied, the judgment-creditor has the power to seize, and to sell or realize in money by the hands of the Fiscal, except as hereinafter mentioned, all saleable property, movable or immovable, belonging to the judgment-debtor, or over which or the profits of which the judgment-debtor has a disposing power, which he may exercise for his own benefit, and whether the same be held by or in the name of the judgment-debtor or by another person in trust for him or on his behalf;

Power of creditor to seize and st debtor's property in satisfaction of decree for payment of money.

CHAPTER XXII
OF EXECUTIONS

Classification of decrees.

217. A decree or order of court may command the person against whom it operates—

Provided that the following shall not be liable to such seizure or sale, namely—

- (A) to pay money;
- (B) to deliver movable property;
- (C) to yield up possession of immovable property;
- (D) to grant, convey, or otherwise pass from himself any right to, or interest in, any property;
- (E) to do any act not falling under any one of the foregoing heads ;

(a) the necessary wearing apparel, beds, and bedding of the judgment-debtor, or of his wife and children;

Excerpted property.

(b) tools, utensils, and implements of trade or business, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed grain as may in the opinion of the court be necessary to enable him to earn his livelihood as such; and such quantity of paddy as may, in the opinion of the court, be necessary for the purpose of providing for the support of himself and his family until the next harvest;

[\$35, Law 1977.]

or it may enjoin that person—

- (F) not to do a specified act, or to abstain from specified conduct or behaviour,

[§35, Law 20 of 1977.] (c) professional instruments and library necessary for the carrying on of the judgment-debtor's profession or business to the value of one thousand rupees;

(d) books of accounts ;

(e) mere rights to sue for damages;

(f) any right of personal service ;

[§2, 24 of 1961.] (g) the stipend, the cost of living allowance and the special living allowance of a naval, military, air force, civil or political pensioner of the Government;

[§35, Law 20 of 1977.] (h) so much of the salary and allowances of a state officer as does not in the aggregate exceed five hundred rupees per month ;

(i) the pay and allowances of persons to whom the articles of war apply ;

(j) the wages of labourers and domestic servants;

(k) an expectancy of succession by survivorship or other merely contingent or possible right of interest;

[§35, Law 20 of 1977.] (l) a right to future maintenance and all maintenance, alimony and costs ordered in matrimonial suits or maintenance actions;

[§35, Law 20 of 1977.] (m) so much of the salary or wages and allowances of an employee other than a state officer as does not in the aggregate exceed five hundred rupees per month;

[§35, Law 20 of 1977.] (n) any house which is not mortgaged as security for the payment of the whole or part of the sum referred to in such decree and which is the actual residence of the judgment-debtor at the time of the execution of such decree and has been such residence from the time of the institution of the action in which such decree has been entered together with such extent of land

appurtenant thereto as the court may consider necessary for its enjoyment;

(o) the amount standing to the credit of an employee's individual account in the Employees' Provident Fund established under the Employees' Provident Fund Act, or in any other provident fund established for the benefit of employees in any employment. [§2, 24 of 1961.]

Explanation.—The particulars mentioned in clauses (g), (h), (i), (j), (m) and (o) are exempt from sequestration or sale, whether before or after they are actually payable. [§35, Law 20 of 1977.]

219. (1) The party entitled to enforce any decree for the recovery or payment of money may apply to the court for an order that the debtor (or, in the case of a corporation, that any officer thereof) be orally examined before the court on oath or affirmation, as to whether any and what debts are owing to the debtor, and whether the debtor has any and what other property or means of satisfying the decree; and the court may thereon make an order for the attendance and examination on oath or affirmation of such debtor or of any other person whom it thinks necessary, and for the production by such debtor or person of any books or documents. Examination of judgment-debtor as to debts owing to him.

(2) If a debtor for whose attendance an order has been made under this section fails to comply with such order, the court may, on its own motion or on the application of the party entitled to enforce the decree, issue a warrant for the arrest of such debtor:

Provided the court may make it a condition of the issue of such warrant that the person applying for it shall deposit such sum as the court may deem reasonable for the subsistence of the debtor from the time of his arrest until he can be brought before the court, and for the purpose of defraying any other expenditure that may be incurred in executing such warrant.

220. It shall not be necessary to support any such application by affidavits of the applicant's belief that any debts are owing to the debtor, or that he has any other property or means of satisfying the decree. Application need not be supported by affidavit.

Costs. **221.** The costs of any such application and of any proceedings arising thereout or incidental thereto shall be in the discretion of the court.

Execution of decree against legal representative of a deceased person. **222.** (1) If the decree is against a party as the legal representative of a deceased person, and is for money to be paid out of the property of the deceased, it may be executed by the attachment and sale of any such property in the hands or under the control of the party against whom the decree is made.

(2) If no such property can be found, and the judgment-debtor fails to satisfy the court that he has duly applied such property of the deceased as is proved to have come into his possession, the decree may be executed against the judgment-debtor to the extent of the property not duly applied by him, in the same manner as if the decree had been against him personally.

[§8, 53 of 1980.] (3) An application to execute a decree against the judgment-debtor as provided in subsection (2) shall be made, by petition supported by affidavit of the judgment-creditor setting out the material facts, to which application the judgment-debtor shall be made respondent. The court shall after inquiry, if satisfied that the decree should be executed against the judgment-debtor personally, grant such application.

Seizure and sale to be effected under order of court. **223.** For the purpose of effecting the required seizure and sale in any case the Fiscal must be put in motion by application for execution of decree to the court which made the decree sought to be enforced.

Application therefor. **224.** The application for execution of the decree shall be in writing, signed by the applicant or his registered attorney, and shall contain the following particulars :—

- (a) the number of the action;
- (b) the names of the parties;
- (c) the date of the decree;
- (d) whether any appeal has been preferred from the decree;
- (e) whether any, and what, adjustment of the matter in dispute has been made between the parties subsequently to the decree;

(f) whether any, and what previous applications have been made for execution of the decree, and with what result, including the dates and amounts of previous levies, if any;

(g) the amount of the debt or compensation, with the interest, if any, due upon the decree, or other relief granted thereby;

(h) the amount of costs, if any, awarded;

(i) the name of the person against whom the enforcement of the decree is sought;

(j) the mode in which the assistance of the court is required, whether by the delivery of property specifically decreed, by the arrest and imprisonment of the person named in the application, or by the attachment of his property, or otherwise as the nature of the relief sought may require.

225. (1) Upon the application for execution of the decree being made, the court shall satisfy itself by reference, if necessary, to the record of the action in which the decree or order sought to be executed was passed, that the application is substantially in conformity with the foregoing directions, and that the applicant is entitled to obtain execution of the decree or order which is the subject of the application. If the court is not satisfied in these respects it shall refuse to entertain the application, unless and until amended in the particulars in which the court considers it faulty and defective, and with the view to its being so amended the court shall point out these particulars to the applicant;

Court to satisfy itself as to conformity c application.

Provided that the court may make the requisite amendment then and there, if it is consented to by the applicant and is such as to admit of being conveniently so affected; and

When application should be refused by the court.

Provided further that every such amendment shall be attested by the signature of the Judge making it.

(2) In the event of the court refusing to entertain the application, the order of refusal, stating the date both of the application and of the order, and the name of the applicant, and specifying the grounds of refusal, shall be endorsed on the application, and the same shall be filed of record in the action.

Writ of execution.

(3) If the court is satisfied in the respects above indicated, it shall direct a writ of execution to issue to the Fiscal in the form No. 43 in the First Schedule.

Duties of Fiscal on receiving writ.

226. (1) Upon receiving the writ, the Fiscal or his deputy, or other officer, shall within forty-eight hours after delivery to him of the same, if the debtor shall be a person residing within five miles of the office of the Fiscal or Deputy Fiscal—or if residing beyond five miles, within an additional forty-eight hours for every five miles or part thereof—repair to his dwelling house or place of residence and there require him, if present, to pay the amount of the writ.

(2) If by reason of the debtor's absence no demand for the payment is made, or, in the event of any such demand, when made not being complied with, the Fiscal shall forthwith proceed to seize and sell, or otherwise realize in money, such unclaimed property of the judgment-debtor as may be pointed out and surrendered to him for the purpose by the judgment-debtor, or in default thereof such property of the Judgment-debtor as may be pointed out by the judgment-creditor, or such property as is specified in the writ according to the rules next hereinafter contained:

Provided that when the debtor is out of Sri Lanka it shall not be necessary to require him to pay the amount of the writ before the execution is carried into effect.

Mode of Seizure

Seizure of movable property in possession of debtor to be manual.

227. If the property sought to be seized and sold, or otherwise realized in satisfaction of the decree to be executed is movable property in the possession of the judgment-debtor, other than the property mentioned in the first proviso to section 218, the seizure shall be manual.

The Fiscal, Deputy Fiscal, or other officer may at his discretion permit the owner or possessor of the property or the writ-holder to take charge of the property until the time of sale, on giving security to the satisfaction of such officer that he will in the meantime safely and securely keep the same; or such officer may upon the necessary expenses therefor being advanced or secured to him by the debtor or the writ-holder, keep the property in his own custody or in the custody of one of his subordinates, or cause the same to be removed to some fit place of security.

Disposal of property seized until sale.

If such security is not given or such expenses are not advanced or secured, the Fiscal, Deputy Fiscal, or other officer shall make a special return thereof to the court, and shall not be responsible for the due custody of the property so seized.

The expenses of keeping the property in such custody or of removing the same when certified by the Fiscal shall, if not paid by the debtor, be a first charge on the proceeds of the property seized or sequestered, provided that the court may, if it thinks fit, reduce the amount of expenses so certified as aforesaid:

Provided that when the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody will exceed its value, the Fiscal may sell it at once.

Proviso as to perishable property.

228. If the property is a negotiable instrument not deposited in a court, nor in the custody of a public officer, the instrument shall be seized and brought into court and held subject to the further orders of the court.

As to attachment of negotiable instrument.

229. In the case of-

- (i) a debt not secured by a negotiable instrument,
- (ii) a share in the capital of any public company or corporation,
- (iii) other movable property not in the possession of the judgment-debtor, except property deposited in, or in the custody of, any court, or in the custody of a public officer,

Seizure of debts, shares, and movable property not in possession of debtor and not deposited in court to be by written notice of prohibition-

the sequestration or seizure shall be made by a written notice signed by the Fiscal, prohibiting—

- (a) in the case of the debt, the creditor from recovering the debt, and the debtor from making payment thereof until the further order of the court from which the writ of execution authorizing the seizure issues;
- (b) in the case of the share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon ;
- (c) in the case of the other movable property except as aforesaid, the person in possession of the same from giving it over to the judgment-debtor.

A copy of such order shall be affixed to some conspicuous part of the court-house, and another copy of the same shall be delivered or sent by post, in the case of the debt to the debtor, in the case of the share to the proper officer of the company or corporation, and in the case of the other movable property (except as aforesaid) to the person in possession of the same.

Judgment-debtor's debtor maybe summoned, or execution may issue against him.

230. (I) A debtor prohibited under clause (a) of the last preceding section may, upon the *ex parte* application of the judgment-creditor, be summoned by the court to show cause, on a day fixed in the summons, why he should not pay to the judgment-creditor the debt due from him to the judgment-debtor, or so much thereof as may be sufficient to satisfy the judgment. If such debtor does not dispute the debt due or claimed to be due from him, and fails within such time as may be allowed him by the court to pay into court the amount due from him to the judgment-debtor, or an amount equal to the judgment, or if he does not appear upon summons, then the court may order execution to issue, and it may issue accordingly, to levy the amount due from such debtor, or so much thereof as may be sufficient to satisfy the judgment.

(2) The costs of any application and of any proceedings arising from, or incidental

to, any such application as aforesaid shall be in the discretion of the court.

231. Payment made by, or execution levied upon, such debtor in manner provided in the last preceding section shall be a valid discharge to him as against the judgment-debtor to the amount paid or levied, although such proceeding may be set aside or the judgment in respect of which any payment or levy is made may be reversed.

Payment by him to be a discharge as against judgment-debtor.

232. (1) If the property is deposited in, or in the custody of, any court or public officer, the seizure shall be made by a notice to such court or officer, requesting that such property and any interest or dividend becoming payable thereon may be held subject to the further orders of the court from which the writ of execution authorizing the seizure issues :

Seizure of property deposited in any court.

Provided that, if such property is deposited in, or is in the custody of, a court, any question of title or priority arising between the judgment-creditor and any other person, not being the judgment-debtor, claiming to be interested in such property by virtue of any assignment, attachment, or otherwise, shall be determined by such court.

Question of title or priority.

(2) Upon such notice being received by any court a memorandum thereof shall be made in the journal of the action in which or to the credit of any party to which, the money is deposited, or is in the custody of the court.

Explanation.—Money in an appropriate bank account to the credit of an action, or to the credit of any party to an action, is within the meaning of this section, money deposited in, or in the custody of, the court in which the action is.

233. The notice necessary to effect seizure under section 229 and 232 may be signed and served by the Fiscal under the authority of the writ of execution alone.

Notice by Fiscal.

234. (1) If the property is a decree for money passed in favour of the judgment-debtor by the court which passed the decree sought to be executed, the seizure shall be

Seizure of a money decree in favour of Judgment-debtor.

made by an order of the court directing the proceeds of the former decree to be applied in satisfaction of the latter decree.

the continuance of the seizure, shall be void as against all claims enforceable under the seizure.

(2) If the property is a decree for money passed by any other court, the seizure shall be made by a notice in writing to such court signed by the Registrar of the court which passed the decree sought to be executed, requesting the former court to stay the execution of its decree until such notice is cancelled by the court from which it was sent. The court receiving such notice shall stay execution accordingly, unless and until—

- (a) the court which passed the decree sought to be executed cancels the notice, or
- (b) the holder of the decree sought to be executed applies to the court receiving such notice to execute its own decree.

On receiving such application the court shall proceed to execute the decree and apply the proceeds in satisfaction of the decree sought to be executed.

Seizure of any other decrees.

235. In the case of all other decrees the seizure shall be made by an order of the court which passed the decree sought to be executed to the holder of the decree sought to be seized, prohibiting him from transferring or charging the same in any way, and when such decree has been passed in any other court, also by sending to such court a like notice in writing to abstain from executing the decree sought to be seized until such notice is cancelled by the court from which it was sent. Every court receiving such notice shall give effect to the same until it is so cancelled.

Alienation by debtor subsequent to seizure void as against claims enforceable under seizure,

236. When a seizure of any negotiable instrument, debt, share, money, decree or any other movable property has been effected and made known in manner hereinbefore provided, any private alienation of the property seized, whether by sale, gift, mortgage, or otherwise, and any payment of the debt or dividend or delivery of the share to the judgment-debtor during

237. (1) If the property is immovable, the seizure shall be made by a notice signed by the Fiscal prohibiting the judgment-debtor from transferring or charging the property in any way, and all persons from receiving the same from him by purchase, gift, or otherwise.

Seizure of immovable properly to be by written notice of prohibition.

(2) The notice shall specify the parties to the action, the judgment-debtor, the dates of judgment and seizure, and the name, situation, and boundaries of the land seized, and shall be proclaimed at some place on or adjacent to such property by beat of tom-tom or other customary mode, and a copy of the notice shall be affixed by the Fiscal to a conspicuous part of the property and of the court-house and of the Fiscal's office. But in no case shall the Fiscal enter upon actual possession of the immovable property so seized, or receive the rents and profits thereof, unless expressly directed so to do by order made under Chapter L.

Publication of such notice-

238. When a seizure of immovable property is effected under a writ of execution and made known as provided by section 237 and notice of the seizure is registered before the 1st day of January, 1928, in the book formerly kept under section 237 or is registered on or after the 1st day of January, 1928, under the Registration of Documents Ordinance, any sale, conveyance, mortgage, lease, or disposition of the property seized, made after the seizure and registration of the notice of seizure and while such registration remains in force is void as against a purchaser from the Fiscal selling under the writ of execution and as against all persons deriving title under or through the purchaser.

Effect of publication of seizure and registration of notice of seizure.

239. If the amount decreed with costs and all charges and expenses resulting from the seizure of any property is paid into court, or if satisfaction of the decree is otherwise made through the court, or if the decree is set aside or reversed, an order shall be issued on the application of any person interested in the property, for the withdrawal of the seizure.

When seizure must be ordered to be withdrawn.

List to be made of property seized.

240. As soon as any property shall be seized by the Fiscal, Deputy Fiscal, or other officer, a list of such property shall forthwith be made and signed by himself or the person seizing the same, and shall be given to the judgment-debtor and to any person claiming to be in possession of the property seized, and copies thereof shall be also deposited in the Fiscal's office and annexed to the return to the writ.

Claims to Property seized

Claims to property seized to be reported by Fiscal and investigated by court.

241. In the event of any claim being preferred to, or objection offered against the seizure or sale of, any immovable or movable property which may have been seized in execution of a decree or under any order passed before decree, as not liable to be sold, the Fiscal or Deputy Fiscal shall, as soon as the same is preferred or offered, as the case may be, report the same to the court which passed such decree or order; and the court shall thereupon proceed in a summary manner to investigate such claim or objection with the like power as regards the examination of the claimant or objector, and in all other respects, as if he were a party to the action;

Provided always that when any such claim or objection is preferred or offered in the case of any property so seized outside the local limits of the jurisdiction of the court which passed the decree or order under which such seizure is made, such report shall be made to, and such investigation shall thereupon be held by, the court of the district or division within the local limits of which such seizure was made, and the proceedings on such report and investigation with the order thereon shall, at the expiry of the appealable time, if no appeal has been within that time taken therefrom, but if an appeal has been taken, immediately upon the receipt by such court of the judgment or order in appeal, be forwarded by such court to the court which passed the decree or order, and shall be and become part of the record in the action;

Provided, further, that in every such case the court to which such report is made shall be nearer to the place of seizure than, and of co-ordinate jurisdiction with, the court which passed the decree or order.

242. The claim or objection shall be made at the earliest opportunity, and if the property to which the claim or objection applies shall have been advertised for sale, the sale may (if it appears to the court necessary) be postponed for the purpose of making the investigation mentioned in section 241:

Claim to be made at earliest opportunity

Provided that no such investigation shall be made if it appears to the court that the making of the claim or objection was designedly and unnecessarily delayed with a view to obstruct the ends of justice.

243. The claimant or objector must on such investigation adduce evidence to show that at the date of the seizure he had some interest in, or was possessed of, the property seized.

Claimant to adduce evidence.

244. If upon the said investigation the court is satisfied that, for the reason stated in the claim or objection such property was not, when seized, in the possession of the judgment-debtor, or of some person in trust for him or in the occupancy of a tenant or other person paying rent to him, or that being in the possession of the judgment-debtor at such time, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the court shall release the property wholly, or to such extent as it thinks fit, from seizure and make such order as to payment of fees and charges already incurred by the Fiscal as it may deem fit.

Discretion of court to release the property claimed.

245. If the court is satisfied that the property was, at the time it was seized, in possession of the judgment-debtor as his own property, and not on account of any other person or was in the possession of some other person, in trust for him, or in the occupancy of a tenant or other person paying rent to him, the court shall disallow the claim.

When may court disallow the claim.

246. If the court is satisfied that the property is subject to a mortgage or lien in favour of some person not in possession, and thinks fit to continue the sequestration or seizure, it may do so subject to such mortgage or lien.

Court may continue seizure subject to mortgage or lien.

Action by party claiming right.

247. The party against whom an order under section 244, 245, or 246 is passed may institute an action within fourteen days from the date of such order to establish the right which he claims to the property in dispute, or to have the said property declared liable to be sold in execution of the decree in his favour ; subject to the result of such action, if any, the order shall be conclusive.

Punishment as well as damages may be awarded for groundless claim.

248. Whenever it shall appear to a competent court, and be so found and declared in any judgment pronounced by it in any action instituted by or against any person claiming any property pointed out or seized in execution, that such claim is altogether groundless, and wilfully preferred only to defeat or delay the execution, every such claimant shall, in addition to his liability to pay costs and damages, be liable to a fine not exceeding fifty rupees, and such fine shall be recovered as a fine imposed by a court in a criminal case.

Seizure of partnership property for debt of partner, other partner may apply for release.

249. When a Fiscal has seized property of a partnership before or after its dissolution, upon a writ of execution against the interest therein of any partner made by virtue of an execution against his individual property, any other partner or former partner having an interest in the property may, at any time before the sale, apply to the court from which the writ of execution issued, upon an affidavit showing the facts, for an order directing the Fiscal to release the property and to deliver it to the applicant.

Undertaking to be given by applicant.

250. Upon such an application the applicant must give an undertaking, with at least two sureties, approved by the Judge, to the effect that he will account to the purchaser upon the sale to be made by virtue of the execution of the interest of the judgment-debtor in the property seized, in like manner as he would be bound to account to an assignee of such an interest; and that he will pay to the purchaser the balance which may be found due upon the accounting, not exceeding a sum specified in the undertaking, which must be not less than the value of the interest of the judgment-debtor in the property seized by the Fiscal as fixed by the Judge.

251. Where property of a partnership has been released upon an undertaking as prescribed in the last two sections, if the execution by virtue of which the levy was made is set aside or is satisfied without a sale of the interest levied upon, the undertaking enures to the benefit of each judgment-creditor of the same judgment-debtor then having an execution in the hands of the Fiscal having authority to levy upon that interest, as if it had been given to obtain a release from a seizure made by virtue of such an execution.

Undertaking, to whose benefit it

252. Where property of a partnership has been so released, the interest of the judgment-debtor therein may be sold by the Fiscal, and the purchaser upon the sale acquires all that interest as if he was an assignee thereof.

Interest of judgment-debtor may be sold.

Of the Sale and Disposition of the Property seized: (I) Of Sales Generally

253. If the property seized is coin or currency notes the Fiscal shall deal with it in the manner hereinafter directed in respect of money received by the Fiscal on the sale of property sold at the execution sale.

Coin or currency notes seized how dealt with.

254. When the property seized is a decree of court the judgment-creditor at whose instance the seizure is made shall be deemed the assignee thereof under assignment as of the date of the seizure, made by the person against whom he is executing the writ of execution, so far as that person's interest extends, and he may realize the decree in the manner hereinafter provided for the execution of a decree by an assignee thereof.

How may decree of court, seized be realized.

255. In the case of all other property seized by the Fiscal he shall proceed to the sale thereof in the manner following :—

Procedure in case of other property seized by Fiscal.

I.—In all cases of movable property the Fiscal or Deputy Fiscal shall cause notice of sale thereof to be given by beat of tom-tom or in such other manner as to secure publicity thereto, both at the place of sale and also where the seizure shall have been made, and such notice shall not be less than three days and not exceeding fourteen days before the day of sale, unless the time be enlarged by any order of court, and shall specify, as fairly and accurately as under the circumstances is reasonably practicable—

Notice of sale: I.—For movable property.

- (a) the property to be sold ;
- (b) the action in which, and
- (c) the place, and
- (d) day, and
- (e) hour at which the sale is to take place;
- (f) the amount of money for the levy of which the writ issued.

II.—For immovable property. [§36, Law 20 of 1977.]

II.—In all cases of immovable property the like notice of sale shall be given as is hereinbefore required in sales of movable property, and the Fiscal, Deputy Fiscal, or other officer shall also cause to be made three copies of the notice of sale in the language of the court, and, where the language of the court is also Tamil, three translations into that language, one of each of which he shall cause to be posted at the court-house whence the execution issued, in some conspicuous part of the town or village in which the land is situate, and on some conspicuous spot on the property for sale, each of which publications shall be made ten days at the least before such sale takes place.

Advertisement where property exceeds five thousand rupees in value. [§37, Law 20 of 1977.]

256. Whenever the property seized under one writ shall exceed the value of five thousand rupees, the Fiscal, Deputy Fiscal or other officer shall, in addition to the notice hereinbefore required, advertise the sale thereof, enumerating briefly the goods for sale, the nature and situation of the land, and the time and place of the sale, in a local daily newspaper or in such other manner as the court may direct having regard to the value of the property and other relevant circumstances; and no such sale shall take place until it shall have been so advertised once at least twenty days prior to the sale. It shall be lawful to the execution-creditor or debtor to require the publication of such sale to be made in any newspaper to be named by him, and all costs and charges attending such advertisements, particulars of which shall be always given by the Fiscal with his return, shall be paid in advance by the party requiring such publication.

Proceedings at the sale.

258*. Every sale shall be held by an officer of the Fiscal, or some other person duly authorized by the Fiscal or Deputy Fiscal by writing under his hand.

When the proceeds do not exceed the sum of seven thousand five hundred rupees, the Fiscal or Deputy Fiscal shall recover a fee of three *per centum* on the proceeds actually recovered on return thereof made to the court in respect of every sale and resale of movable property, and two *per centum* on the proceeds of sale of immovable property belonging to the debtor.

When the proceeds, whether of movable or immovable property, exceed that sum, the Fiscal or Deputy Fiscal shall recover a fee of one hundred and fifty rupees and of five rupees for every thousand rupees of the proceeds over and above the said sum of seven thousand five hundred rupees.

And in every case after the seizure of property and publication of sale thereof, in which the sale shall be postponed or stayed at the request or with the concurrence of the party suing out the writ, the Fiscal or Deputy Fiscal shall recover half of the above fees on the estimated value of such property from the party at whose instance the writ shall be stayed, and in default of immediate payment thereof the Fiscal shall certify the amount of such fees to the court whence the execution issued :

Provided, however, that such fee shall never exceed fifty rupees or the actual expenditure already incurred by the Fiscal towards carrying out the sale, whichever sum shall be the larger. The fees recovered under this section shall be brought to account and appropriated in such manner as the Secretary to the Treasury shall from time to time direct.

259. (1) If at any time prior to the sale of immovable property seized in execution the judgment-debtor can satisfy the court that there is reason to believe that the amount of the decree and of any unsatisfied judgment then in force against him may be raised by mortgage, or lease, or private sale of such property, or some part thereof, or of any other immovable property of the judgment-debtor, the court may on his application postpone the sale of such property for such period as it thinks proper to enable him to raise the amount, and shall make such order as to the payment of fees and charges due to the Fiscal as it may deem fit.

Court may in certain cases postpone sale.

* Section 257 is repealed by Law No. 20 of 1977.

(2) In such case the court shall grant a certificate to the judgment-debtor, authorizing him, within a period to be mentioned therein, and notwithstanding anything contained in section 238, to make the proposed mortgage, lease, or sale;

Provided that all moneys payable under such mortgage, lease, or sale shall be paid into court and not to the judgment-debtor ;

Provided also that no mortgage, lease, or sale under this section shall become absolute until it has been confirmed by the court.

Deposit by purchaser.

260. On every sale of immovable property under this Chapter the person declared to be the purchaser shall pay immediately after such declaration, in every case where the price does not exceed one hundred rupees, the full amount of, but in every other case a deposit of twenty-five per centum on the amount of his purchase money to the officer conducting the sale, and in default of such deposit the property shall forthwith be put up again for sale.

Payment in full.

261. Where the price exceeds one hundred rupees the balance amount of the purchase money shall be paid by the purchaser on or before the thirtieth day after the sale of the property, or if the thirtieth day be a public holiday, then on the first office day after the thirtieth day.

Default in payment, consequence of.

262. In default of payment within the period mentioned in the last preceding section, the deposit, after defraying the expenses of the sale, shall be forfeited to, and shall go in reduction of the claim of, the Judgment-creditor, and the property shall be resold, and the defaulting purchaser shall forfeit all claim to the property and to any part of the sum for which it may subsequently be sold.

Fresh notification on resale.

263. Every resale of immovable property in default of payment of the purchase money within the period allowed for such payment shall be made after the issue of a fresh notification in the manner and for the period hereinbefore prescribed for the sale.

Bid by a co-sharer.

264. When the property sold in execution of a decree is a share of undivided immovable property, and two or more

persons, of whom one is a co-sharer, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of such co-sharer.

265. The Fiscal or other officer conducting any sale of immovable property under this Chapter may, before accepting any bid at such sale, satisfy himself as to the bona fides of the bidder, and his ability to pay down the amount of deposit required ; and in the event of his not being so satisfied may refuse to accept any such bid, and shall continue the sale as if no such bid had been made.

Fiscal to satisfy himself as to bona fides of bidder.

266. The second sale, taking place in consequence of such non-payment of balance of purchase money, shall be made in the manner hereinbefore prescribed for the first sale, and if the amount of the purchase money for which the property is sold at such second sale shall fall short of the amount for which the first sale was concluded, then the first purchaser and his sureties, if any, shall be held liable to pay the Fiscal the amount of this difference, and the Fiscal on non-payment thereof by such purchaser and his sureties within one week after demand made by him upon them respectively in writing, shall certify the amount of the said difference to the court whence the execution issued. And the like course shall be observed in respect of any subsequent sale rendered necessary by failure in payment of the purchase amount.

Deficiency on resale to be paid by first purchaser on Fiscal's certificate.

267. If at the sale of immovable property the highest bidder on being declared the purchaser shall not forthwith pay down the amount of deposit required, and give good and sufficient security to the satisfaction of the Fiscal, Deputy Fiscal, or other officer for the payment of the residue, the next highest bidder may be thereupon declared the purchaser, and required to make such deposit and security as aforesaid ; and in the same manner the other bidders in rotation ; and each person failing to make such deposit and to give security as aforesaid may be held liable to pay the difference between the amount of his offer and the sum finally settled at the sale, and the Fiscal, on non-payment thereof by such persons respectively within one week after demand made by him upon them in writing,

On highest bidder not making deposit, next highest may be declared purchaser; difference to be paid by highest bidder on Fiscal's certificate.

shall certify the amount of the said difference in each case to the court whence the execution issued:

Provided,-however, that in case of default of the highest bidder, instead of declaring the next highest bidder purchaser, the officer holding the sale may forthwith put up the property for sale anew, or adjourn the sale, in which latter case the property shall again be advertised as before.

Forfeiture of deposit.

268. If the price for which the property is finally sold at the second or any subsequent sale is not less than that of the first sale, then the money deposited by the purchaser at the first and other sales which preceded the final sale shall be paid to the execution-creditor in satisfaction *pro tanto* of the judgment; and in the event of such judgment being so satisfied, and any surplus remaining, such surplus shall, after deducting any expenses consequent on the sale, be paid to the judgment-debtor.

Differences realized to augment the purchase money.

269. The differences between the biddings of any person failing to make the deposit and give the security required by section 267 and the sum finally settled at any such sale and between the amount of the final sale and those of previous sales shall, when realized, be paid by the Fiscal into the Government Agent's office in augmentation of the purchase money of the final sale.

The amount certified by Fiscal to be recovered as by execution of decree.

270. The amount certified by the Fiscal to be payable to him for half fees under the provisions of section 258 and the amounts of the differences certified by the Fiscal and directed to be reported to the court by sections 266 and 267 shall, in the case of such half fees at the instance of the Fiscal and in the case of such differences respectively at the instance either of the Fiscal, or of the judgment-creditor, or of the judgment-debtor, be recoverable from the persons declared in those sections to be liable to pay the same, in the same way as if the certificate were a decree for money passed by the court to which it is returned against those persons; and the cost (to be fixed by the court) of any notice, publication, or proclamation required under any of the provisions of this Ordinance to be given or made by the Fiscal by beat of

Cost of notice, publication, or proclamation.

tom-tom or in any other manner whatsoever, shall in every instance, where provision for the payment thereof is not otherwise specially made, be prepaid by the person at whose instance or in whose interest the same is required.

271. No officer having any duty to perform in connection with any sale under this Chapter shall either by himself or another bid for, acquire, or attempt to acquire any interest in any property sold at such sale.

No officer conducting sale to bid

272. (1) A holder of a decree in execution of which property is sold may, with the previous sanction of the court and subject to such terms as to credit being given him by the Fiscal and otherwise as may be imposed by the court, bid for or purchase the property.

Holder of decree may be set off against purchase.

(2) When a decree-holder purchases, the purchase money and the amount due on the decree may, if the court thinks fit, be set off against one another, and the court in execution of whose decree the sale is made may enter up satisfaction of the decree in whole or in part accordingly.

And purchase money may be set off against decree.

273. In all cases the sale of immovable property shall be conducted on the spot, unless the court shall otherwise direct, or unless on application in writing to the Fiscal or his deputy the parties shall consent to its being conducted elsewhere.

Place of sale of immovable property.

(2) *Of Sales of Movable Property*

274. If the property to be sold is a negotiable instrument or a share in any public company or corporation, the court may direct the Fiscal, instead of selling it by public auction, to make the sale of such instrument or share through a broker at the market rate of the day.

Sale of a negotiable instrument or a share in any public company.

275. (1) In the case of other movable property, the price shall be paid at the time of sale, and in default of payment the property shall forthwith be again put up for sale.

Sale of other movable property.

(2) On payment of the purchase money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

What may vitiate sale.

276. No irregularity in publishing or conducting the sale of movable property shall vitiate the sale unless substantial damage has been caused to the person impeaching the sale thereby.

" A. B. by C. D.. Judge of the District Court of (or as the case may be), in an action by E. F. against A. B."

Delivery to purchaser.

277. When the property sold is a negotiable instrument or other movable property of which actual seizure has been made, the property shall be delivered to the purchaser.

(2) Until the transfer of such instrument or share the court may, by order, appoint some person to receive any interest or dividend due thereon, and to sign a receipt for the same; and any endorsement made, or document executed, or receipt signed as aforesaid, shall be as valid and effectual for all purposes as if the same had been made, or executed, or signed by the party himself.

Delivery where third party is in possession.

278. When the property sold is any movable property to which the judgment-debtor is entitled, subject to a right of possession of some other person, the delivery thereof to the purchaser shall be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser.

281. In the case of any movable property not hereinbefore provided for, the court may make an order and execute such document as may be necessary vesting such property in the purchaser, or as he may direct; and such property shall vest accordingly.

In case of other movable property court may make vesting order.

(3) Of Sales of Immovable Property

Delivery of unsecured debt or share.

279. When the property sold is a debt not secured by a negotiable instrument, or is a share in any public company or corporation, the assignment thereof shall be made by a certificate of sale in favour of the purchaser signed by the Fiscal, who shall forthwith, by a written notice, prohibit the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof to any person except the purchaser, or the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser, or receiving payment of any dividend or interest thereon, and the manager, secretary, or other proper officer of the company from permitting any such transfer or making any such payment to any person except the purchaser.

282. (1) The Fiscal shall report to the court every sale of immovable property made by him or under his direction within ten days after the same shall have been made. And no sale of immovable property shall become absolute until thirty days have elapsed subsequent to the receipt of such report, and until such sale has been confirmed by the court.

Sale not absolute until after thirty days and confirmation by court ;

Endorsement of negotiable instrument or share certificate.

280. (1) If the endorsement or conveyance of the party in whose name a negotiable instrument or a share in any public company or corporation is standing is required to transfer such instrument or share, the Judge may endorse the instrument or the certificate of the share, or may execute such other document as may be necessary.

(2) The decree-holder, or any person whose immovable property has been sold under this Chapter, or any person establishing to the satisfaction of the court an interest in such property, may apply by petition to the court to set aside the sale on the ground of a material irregularity in publishing or conducting it; but no sale shall be set aside on the ground of irregularity unless the applicant proves to the satisfaction of the court that he has sustained substantial injury by reason of such irregularity, and unless the grounds of the irregularity shall have been notified to the court within thirty days of the receipt of the Fiscal's report.

and may be set aside for material irregularity.

(3) In every such application the purchaser shall be made respondent to the petition.

The endorsement or execution shall be in the following form or to the like effect:—

283. (1) If no such application as is mentioned in the last preceding section is made within the thirty days, or if such

Order confirming the sale

application is made and the objection disallowed, the court shall at any time after the expiration of the thirty days, on the application of the decree-holder or of the purchaser, pass an order confirming the sale as regards the parties to the suit and the purchaser:

Provided that no order confirming the sale shall be made if it appear to the court that the judgment-debt was satisfied at the time that the writ of execution issued.

Order setting aside the sale.

(2) If such application is made, and if the objection is allowed, the court shall pass an order setting aside the sale.

When purchaser may apply to set aside sale.

284. The purchaser at any such sale may apply to the court by petition on summary procedure to set aside the sale, on the ground that the person whose property purported to be sold had no saleable interest therein, and the court may, on such application, make such order as it thinks fit:

Provided that both the judgment-debtor and the decree-holder are made respondents to the petition.

When purchaser may get back his purchase money.

285. (!) When a sale of immovable property is set aside under sections 282, 283, or 284, when it is found that the judgment-debtor had no saleable interest in the property which purported to be sold, and the purchaser is for that reason deprived of it, the purchaser shall be entitled to receive back his purchase money from any person to whom the purchase money has been paid.

(2) An order for the repayment of the said purchase money may be made by the court on any application under sections 282, 283 or 284, provided that the person against whom the order is directed is party thereto, and such order may be enforced against such person under the rules provided by this Ordinance for the execution of a decree for money.

Conveyance to purchaser.

286. If the court shall have confirmed the sale and the purchaser shall have paid the full amount of the purchase money according to the conditions of sale, and shall have supplied the Fiscal or Deputy Fiscal with stamps of the proper amount

required by law for the conveyance of the land sold to him (which stamps he shall be bound to supply when he pays the purchase money in full), and if the sale was not effected in execution of a decree specifically directing the sale, then the Fiscal or Deputy Fiscal shall forthwith make out and execute a conveyance in duplicate of the property according to the form No. 56 in the First Schedule, or such other form, or expressed in such terms, as the court may deem expedient, which conveyance shall be binding and of force, though not executed before a notary public.

The Fiscal or Deputy Fiscal shall deliver the original to the purchaser and transmit the duplicate to the Registrar of Lands for the district in which the land is situate, in like manner as now is or shall be required to be done by notaries in respect of deeds executed before them; and the Fiscal or Deputy Fiscal shall be entitled to recover for such conveyance—

- (a) when the amount of purchase shall be under thirty rupees, a fee of fifty cents;
- (b) when it shall exceed thirty rupees, a fee of one rupee;
- (c) when it shall exceed one hundred rupees, a fee of one rupee and fifty cents;
- (d) when it shall exceed two hundred rupees, a fee of two rupees and fifty cents; and
- (e) when it shall exceed five hundred rupees, a fee of three rupees and seventy-five cents, and no more;

and such fee shall be brought to account and appropriated in such manner as the Secretary to the Treasury shall direct.

But if the sale was effected in execution of a decree specifically directing the sale, then the conveyance shall be made in conformity with the directions of the court contained in the decree:

Provided, however, that to all conveyances made by the Fiscal to complete a sale effected in execution of a decree of court, in the event of there being no

Conveyance to contain sufficient map of the premises.

diagram or map of the premises which are the subject of the conveyance already appended to a title deed thereof delivered to the purchaser there shall, if the purchaser so requires but not otherwise, be annexed a sufficient map exhibiting, when possible, some permanent physical feature of the ground; and the purchaser shall pay in advance the expense of preparing it in addition to the fee prescribed for the conveyance. Such diagram or map shall be prepared by a competent surveyor licensed by the Fiscal or Deputy Fiscal for that purpose, and such surveyor shall be an officer of the Fiscal within the meaning of section 325, and shall for the purposes of the Penal Code be deemed to be a public servant.

[§2, 32 of 1957.]

Court may order delivery of possession to purchaser.

287. (1) When the property sold is in the occupancy of the judgment-debtor or of some person on his behalf, or of some person claiming under a title created by the judgment-debtor subsequently to the seizure of such property, and a conveyance in respect thereof has been made to the purchaser under section 286, the court shall on application by the purchaser, order delivery to be made by putting the purchaser or any person whom he may appoint to receive delivery on his behalf in possession of the property, and, if need be, by removing any person bound by the decree who refuses to vacate the same.

Order how to be enforced.

(2) An order for delivery of possession made under this section may be enforced as an order falling under head (C) section 217, the purchaser being considered as judgment-creditor.

Mode of delivery where property is in occupancy of person entitled to occupy.

288. When the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a conveyance in respect thereof has been made to the purchaser under section 286, the court shall order delivery thereof to be made by affixing a notice of the sale having taken place, in the language of the court, and, where the language of the court is also Tamil, in that language, in some conspicuous place on the property, and proclaiming to the occupant by beat of tom-tom, or in such other mode as may be customary, at some convenient place, that the interest of the judgment-debtor has been

transferred to the purchaser, and the cost (to be fixed by the court) of such proclamation shall in every case be prepaid by the purchaser.

289. The right and title of the judgment-debtor or of any person holding under him or deriving title through him to immovable property sold by virtue of an execution is not divested by the sale until the confirmation of the sale by the court and the execution of the Fiscal's conveyance, But if the sale is confirmed by the court and the conveyance is executed in pursuance of the sale, the grantee in the conveyance is deemed to have been vested with the legal estate from the time of the sale.

Right and title of judgment-debtor not divested by sale till confirmation and execution of Fiscal's conveyance.

290. The Fiscal, on the day of the sale, or at any time thereafter until the confirmation of the sale by the court and the execution of the Fiscal's conveyance may at his discretion, and if provided with the necessary funds therefor by the purchaser or by the judgment-creditor, or debtor, himself or by his agent duly authorized in writing enter into possession of the immovable property sold by virtue of the execution, and retain possession of the same until the confirmation of the sale by the court and the execution of the conveyance in pursuance thereof.

Fiscal may enter property sold.

291. The person in possession of immovable property sold by virtue of an execution may, until the confirmation of the sale by the court and the execution of the Fiscal's conveyance, use and enjoy the same as follows, without being chargeable with committing waste;—

Person in possession may use and enjoy until confirmation of sale.

- (1) He may use it and enjoy it in like manner and for the like purposes as it was used and enjoyed before the sale, doing no permanent injury to the property.
- (2) He may make the necessary repairs to a building or other erection thereupon. But this provision does not permit an alteration in the form or structure of the building or other erection.
- (3) He may use and improve the land in the ordinary course of husbandry, and may collect, gather, harvest,

and store the crops and produce thereof, but shall not be entitled to them.

- (4) He may apply any wood or timber on the land to the necessary reparation of a fence, building, or other erection which was thereupon at the time of the sale.

On confirmation and execution of conveyance, Fiscal to deliver possession to grantee.

292. On the sale being confirmed by the court and the conveyance executed in pursuance of the sale, the Fiscal or person in possession of the immovable property sold shall forthwith give possession of the same, together with all the crops and produce (if any) collected, gathered, harvested, and stored subsequent to the sale, to the grantee in the conveyance ; and if the sale is not confirmed, the Fiscal or his agent shall forthwith, if in possession, restore the judgment-debtor or any person holding under him to possession of the immovable property together with all the crops and produce (if any) collected, gathered, harvested, and stored whilst the Fiscal or his agent was in possession.

Judgment-debtor may be restrained from waste.

293. If at any time before the execution of the Fiscal's conveyance the judgment-debtor, or any other person in possession of the property sold, commits, or threatens to commit, or makes preparations for committing waste thereupon, the court from which execution issued may, upon the application of the purchaser or his agent or attorney, and proof by affidavit of the facts, grant, without notice, an order restraining the wrongdoer from committing waste upon the property.

Punishment for committing waste.

294. If the person against whom such an order is granted commits waste in violation thereof after the service upon him of the order, the court, upon proof by affidavit of the facts, may grant an order requiring him to show cause at a time and place therein specified why he should not be punished for a contempt.

And for disobeying order.

295. If upon the return of the order to show cause it satisfactorily appears that the person required to show cause has violated the former order, the court may punish him in manner provided by law for the punishment of contempts of court.

Moneys paid to. and realized by, the Fiscal

296. Whenever any person, whether acting for himself or as an attorney-at-law for any other person, has occasion to pay any sum of money into any court to the credit of any case, he shall deposit such sum of money to the credit of such case in the appropriate bank account.

Mode of payment to court by attorneys-at-law and other persons. [§39, Law 20 of 1977.]

297. (1) Whenever the Fiscal receives or realizes a sum of money in the course of the execution of a decree or otherwise, he shall issue a receipt for "such sum to the person making payment, and shall forthwith deposit such sum of money to the credit of such case in the appropriate bank account.

Mode of payment to court by Fiscal [§39, Law 20 of 1977.]

(2) In this and the preceding section "appropriate bank account" means the bank account of the court to whose credit or under whose authority such money is paid, received, or realized.

Arrest and Imprisonment

298. (1) Where, after the issue of a writ for the execution of a decree for the payment of money, the court is satisfied on the application of the judgment-creditor, after such inquiry as the court may deem necessary, that the judgment-debtor—

Issue of warrant for arrest of debtor execution of decree for money

- (a) is about to abscond or leave the jurisdiction of the court with intent to defraud the judgment-creditor or with intent to obstruct or delay the execution of the decree ; or
- (b) is about to leave Sri Lanka under circumstances affording reasonable probability that the judgment-creditor will thereby be obstructed or delayed in the execution of the decree; or
- (c) has, on or after the date of the institution of the action in which the writ of execution was issued, concealed, transferred or removed his property or any part thereof with intent to defraud the judgment-creditor or with intent to obstruct or delay the execution of the decree, or has, on or after such

date, committed with the like intent any act of bad faith in relation to his property; or

- (d) has been guilty of any act whereby any creditor, other than the judgment-creditor at whose instance the writ of execution was issued, has been given any undue, unreasonable or fraudulent preference; or
- (e) has, at any time since the date of the decree, had sufficient means to pay the amount of the decree, or any part of that amount, and has refused or neglected to pay such amount or part thereof; or
- (f) being a trustee or person acting in any other fiduciary capacity, has, when ordered to pay by a court, made default in the payment of any sum in his possession or under his control,

the court may, subject to the other provisions of this Chapter, issue a warrant for the arrest of the judgment-debtor and for his production in court with a view to his committal to jail in execution of the decree.

(2) A decree for the payment of costs only shall, for the purposes of the application of the provisions of subsection (1), be deemed to be a decree for the payment of money.

Issue of notice on debtor as alternative to warrant.

299. The court may, in its discretion, instead of issuing a warrant under section 298, issue a notice on the judgment-debtor calling upon him to show cause, on a date to be specified in the notice, why he should not be committed to jail in execution of the decree referred to in that section.

Application for warrant to be made by petition and affidavit.

300. Every application under section 298 shall be made by petition supported by affidavit; and it shall not be necessary to name the judgment-debtor as respondent to any such application.

No arrest for sum under Rs. 1,500. [§40, Law 20 of 1977.]

301. No warrant under section 298 or notice under section 299 shall be issued in any case in which the sum awarded in the

decree inclusive of interest, if any, up to the date of the decree but exclusive of any further interest and of costs, is less than one thousand five hundred rupees.

302. No warrant under section 298 or notice under section 299 shall be issued where the judgment-debtor is a woman; and no woman shall be arrested or committed to jail in execution of any decree for the payment of money or of costs.

Woman not liable to arrest in execution.

303. Where a judgment-debtor to whom a notice under section 299 has been issued fails to appear on the day specified in the notice, the court may issue a warrant for his arrest.

Warrant to issue where debtor fails to appear on notice.

304. Subject to the provisions of Chapter XXIII, a judgment-debtor for whose arrest a warrant has been issued under section 298 or section 303 may be arrested at any hour, and on any day, and in any place, and shall thereupon, as soon as practicable, be brought before the court,

Execution of warrant of arrest.

305. Where a judgment-debtor who has been arrested on a warrant pays the amount of the decree in execution of which he is arrested, and the costs of the arrest, to the officer arresting him, such officer shall at once release him from custody.

Officer effecting arrest to release debtor on payment of amount of decree and costs of arrest.

306. Where a judgment-debtor is brought before the court after arrest on a warrant or appears in court in pursuance of a notice issued under section 299, and either—

Discharge of debtor where amount of decree and costs of arrest paid into court.

- (a) pays into court the amount of the decree and, if he has been brought before the court under a warrant, the costs of the arrest, or
- (b) gives security for the payment of the same to the satisfaction of the judgment-creditor,

The court shall release him from arrest or discharge him from such notice, as the case may be. If such payment is not made or if such security is not given, the court shall call upon the judgment-debtor to show cause why he should not be committed to jail.

Debtor who has no cause to show to be committed to Jail.

307. Where the judgment-debtor, on being called upon to show cause under section 306, has no cause to show, the court shall commit him to jail.

Debtor who has cause to show to be discharged or committed to Jail after inquiry.

308. Where the Judgment-debtor, on being called upon to show cause under section 306, proves to the satisfaction of the court—

- (a) that any material allegation of fact, made in the affidavit of the judgment-creditor or given in evidence before the court prior to the issue of the warrant or notice, in consequence of which such warrant or notice was issued, was untrue or incorrect; or
- (b) that for any other reason the warrant or notice should not have been issued, or was irregularly issued in the first instance ;

he shall, if under arrest, be released or, if he has appeared on notice, be discharged from such notice; but if he fails or is unable to furnish such proof the court shall commit him to jail.

Provided that if, on the date on which the Judgment-debtor is brought or appears before the court, the court is satisfied that a warrant for the arrest of the judgment-debtor may be issued on any ground other than that on which the warrant or notice was issued in the first instance, the court may commit the judgment-debtor to jail.

Written statement to be filed by debtor who desires to show cause.

309. Where a judgment-debtor contends that any material allegation of fact, made in the affidavit of the judgment-creditor or given in evidence before the court prior to the issue of the warrant or notice, is untrue or incorrect, he shall file in court a written statement specifying which of the allegations in such affidavit or in such evidence is impugned as untrue or incorrect; and where a judgment-debtor contends that the warrant or notice should not have been issued or was irregularly issued, he shall file in court a written statement of the grounds on which such contention is based.

310. (1) Where the judgment-debtor desires to show cause why he should not be committed to jail, the court may appoint a date for an inquiry and may, pending such inquiry, order the judgment-debtor to be detained in prison or take sufficient security from him that he will appear in court when called upon.

Debtor to be committed to jail or to give security for appearance pending inquiry.

(2) A judgment-debtor who is not detained in prison pending the inquiry may be arrested on a warrant issued by the court at any time for the purposes of such inquiry or with a view to his committal to jail.

(3) The inquiry referred to in subsection (1) may be adjourned from time to time by order of the court.

311. Where a judgment-debtor is committed to Jail, the court shall issue a warrant substantially in the form No. 61 m the First Schedule.

Issue of warrant of committal to jail.

312. Where a judgment-debtor has been released after arrest on a warrant or discharged from a notice under section 306 or section 308, no further proceedings shall be taken as hereinbefore provided with a view to the committal to jail of that judgment-debtor in execution of the decree in respect of which such warrant or notice was issued.

Debtor discharged under section 306 or section 308 not to be rearrested.

313. No judgment-debtor shall be arrested in execution of a decree unless and until the decree-holder pays into court such sum as the Judge thinks sufficient for the subsistence of the judgment-debtor from the time of his arrest until he can be brought before the court, and, where the writ is to be executed in another district, such further sum as the Judge thinks sufficient to cover the expenses of his transport to the court issuing the writ.

Sufficient interim subsistence money to be deposited before arrest.

314. And when a judgment-debtor is committed to jail in execution of a decree, the court shall fix for his subsistence such monthly allowance as he may be entitled to at rates to be fixed by order of Government from time to time, as occasion shall require,

Subsistence allowance during imprisonment to be fixed on commitment.

315. (1) The monthly allowance fixed by the court shall be supplied to the Fiscal by the party on whose application the

Allowance to be paid monthly in advance.

decree has been executed by monthly payments in advance before the first day of each month.

(2) The first payment shall be made for such portion of the current month as remains unexpired before the judgment-debtor is committed to jail.

Power to allow or additional payments.

315A. (1) Where a judgment-debtor who has been committed to jail is, with the approval of the Commissioner of Prisons, either given any special diet on medical advice or admitted to any hospital for examination or treatment, and the monthly allowance fixed under section 314 for the subsistence of that judgment-debtor is insufficient to meet the cost of such special diet, examination or treatment, the court may by order, on application made by the Fiscal, and after hearing such representations as may be made by the party on whose application the decree has been executed and such other evidence as the court may deem necessary—

- (a) vary the monthly allowance fixed under section 314, and specify the period during which the allowance so varied shall be payable, or
- (b) fix such additional sum as may, in the opinion of the court, be necessary to meet the cost of such examination or treatment in hospital and all expenses incidental thereto or connected therewith, and may specify in that order the time and manner of payment of such additional sum.

(2) Any order made by the court under subsection (1) may at any time be varied or cancelled by the court by a further order, on application made by the Fiscal or by the party on whose application the decree has been executed, and after such inquiry as the court may deem necessary.

(3) The provisions of section 315 shall apply to the monthly allowance as varied under this section, in like manner as those provisions apply to the monthly allowance originally fixed by the court.

(4) Any additional sum for the payment of which an order is made under this section shall be supplied to the Fiscal by the party on whose application the decree has been executed, in the manner and at the time specified in the order of the court.

316. Sums of money disbursed by the decree-holder under section 315 or section 315A shall be deemed to be costs in the action:

Disbursements by decree-holder to be deemed costs.

Provided that the judgment-debtor shall not be detained in jail or arrested on account of any sum so disbursed ;

Provided further, that where at the time of the discharge of the judgment-debtor from jail there remains any unexpended balance out of the sum so disbursed, such balance shall be repaid by the Fiscal to the decree-holder and shall not be deemed to be costs in the action.

317. (1) The judgment-debtor shall be discharged from jail—

When debtor entitled to be discharged from jail.

- (a) on the decree being fully satisfied ; or
- (b) at the request of the person on whose application he has been imprisoned ; or
- (c) on such person omitting to pay the allowance as hereinbefore directed ; or
- (d) if the Judgment-debtor be declared an insolvent, and an order in insolvency is made by the District Court protecting him from arrest; or
- (e) when the term of his imprisonment as limited by section 318 is fulfilled :

Provided that in the first, second, third, and fourth cases mentioned in this subsection the judgment-debtor shall not be discharged without the order of the court.

(2) A judgment-debtor discharged under this section is not thereby discharged from his debt, but he cannot be rearrested under the decree in execution of which he was imprisoned.

Limit of imprisonment. **318.** No person shall be imprisoned in execution of a decree for a longer period than six months.

Endorsement on the warrant. **319.** The Fiscal shall endorse upon the warrant of arrest the day on and the manner in which it was executed, and if the latest day specified in the warrant for the return thereof has been exceeded, the reason of the delay; or if it was not executed, the reason why it was not executed, and shall return the warrant with such endorsement to the court.

(B)

DECREES FOR DELIVERY OF MOVABLE PROPERTY

Application for execution of decree for delivery of movable properly, how to be made. **320.** If the decree is for any specific movable or for any share in a specific movable, application to the court for execution of the decree by seizure and delivery may be made by the judgment-creditor in the manner and according to the rules prescribed for execution of decrees under head (A) so far as the same are applicable; and if the court on such application is satisfied that the judgment-creditor is entitled to obtain execution of the decree, it shall direct a writ of execution to issue to the Fiscal in the form No. 62 in the First Schedule.

Form of writ.

Fiscal to procure delivery thereunder.

321. (I) Upon receiving the writ the Fiscal or his officer shall as soon as reasonably may be repair to the dwelling house or place of residence of the judgment-debtor, and there showing him the writ shall demand delivery of the movable or, if practicable, the share thereof specified therein, and on his failing to comply with his demand, the Fiscal or his officer shall, if possible, seize the said specific movable or share thereof, and deliver the same to the Judgment-creditor or to the person authorized by him to receive it.

Procedure on default.

(2) If the judgment-debtor fails to comply with the Fiscal's demand, and if the Fiscal is unable to obtain for the judgment-creditor delivery of the specific movable or share thereof mentioned in the writ, then the court upon being satisfied of these facts may, on application made to it by the judgment-creditor by petition, to which the

judgment-debtor is made respondent, direct a writ of execution by seizure and sale of the judgment-debtor's property, or a warrant for the arrest of the judgment-debtor, or both, to issue to the Fiscal.

322. The amount of money directed to be levied in the writ of execution by seizure and sale issuing under the preceding section shall be the amount of pecuniary loss as nearly as the court can estimate it, which is occasioned to the Judgment-creditor by reason of the judgment-debtor's default in making delivery of the specific movable or share thereof according to the terms of the decree, and which the court shall award by way of compensation to the judgment-creditor by the order directing the writ to issue ; and the execution of this writ, and of the warrant of arrest issuing under the same section, shall be effected according and subject to the rules prescribed for the writ of execution and warrant of arrest issued for the enforcement of decrees falling under head (A).

Amount to be levied and manner of execution.

(C)

DECREES FOR POSSESSION OF IMMOVABLE PROPERTY

323. If the decree or order is for the recovery of possession of immovable property or any share thereof by the judgment-creditor, or if it directs the judgment-debtor to yield or deliver up possession thereof to the judgment-creditor, application to the court for execution of the decree may be made by the judgment-creditor in the manner, and according to the rules, prescribed for execution of decrees under head (A), so far as the same are applicable; and if the court on such application is satisfied that the judgment-creditor is entitled to obtain execution of the decree, it shall direct a writ of execution to issue to the Fiscal in the form No, 63 in the First Schedule.

Application for execution of decree for delivery of immovable property, how to be made.

Form of writ.

324. (1) Upon receiving the writ the Fiscal or his officer shall as soon as reasonably may be repair to the ground, and there deliver over possession of the property described in the writ to the judgment-creditor or to some person appointed by him to receive delivery on his behalf, and if

Fiscal how to proceed thereunder.

need be by removing any person bound by the decree who refuses to vacate the property:

Provided that as to so much of the property, if any, as is in the occupancy of a tenant or other person entitled to occupy the same as against the judgment-debtor, and not bound by the decree to relinquish such occupancy, the Fiscal or his officer shall give delivery by affixing a copy of the writ in some conspicuous place on the property and proclaiming to the occupant by beat of tom-tom, or in such other mode as is customary, at some convenient place, the substance of the decree in regard to the property; and

Provided also that if the occupant can be found, a notice in writing containing the substance of such decree shall be served upon him, and in such case no proclamation need be made.

(2) The cost (to be fixed by the court) of such proclamation shall in every case be prepaid by the judgment-creditor.

Resistance to Execution of Proprietary Decrees

Procedure in event of resistance to execution of writ or delivery of property. [§41, Law 20 of 1977.]

325. (1) Where in the execution of a decree for the possession of movable or immovable property the Fiscal is resisted or obstructed by the judgment-debtor or any other person, or where after the officer has delivered possession, the judgment-creditor is hindered or ousted by the judgment-debtor or any other person in taking complete and effectual possession thereof, and in the case of immovable property, where the judgment-creditor has been so hindered or ousted within a period of one year and one day, the judgment-creditor may at any time within one month from the date of such resistance or obstruction or hindrance or ouster, complain thereof to the court by a petition in which the Judgment-debtor and the person, if any, resisting or obstructing or hindering or ousting shall be named respondents. The court shall thereupon serve a copy of such petition on the parties named therein as respondents and require such respondents to file objections, if any, within such time as they may be directed by court.

(2) When a petition under subsection (1) is presented, the court may, upon the application of the judgment-creditor made by motion *ex parte*, direct the Fiscal to publish a notice announcing that the Fiscal has been resisted or obstructed in delivering possession of such property, or that the judgment-creditor has been hindered in taking complete and effectual possession thereof or ousted therefrom, as the case may be, by the judgment-debtor or other person, and calling upon all persons claiming to be in possession of the whole or any part of such property by virtue of any right or interest and who object to possession being delivered to the judgment-creditor to notify their claims to court within fifteen days of the publication of the notice-

(3) The Fiscal shall make publication by affixing a copy of the notice in the language of the court, and, where the language of the court is also Tamil, in that language, in some conspicuous place on the property and proclaiming in the customary mode or in such manner as the court may direct, the contents of the notice. A copy of such notice shall be affixed to the court-house and if the court so orders shall also be published in any daily newspaper as the court may direct,

(4) Any person claiming to be in possession of the whole of the property or part thereof as against the judgment-creditor may file a written statement of his claim within fifteen days of the publication of the notice on such property, setting out his right or interest entitling him to the present possession of the whole property or part thereof and shall serve a copy of such statement on the judgment-creditor. The investigation into such claim shall be taken up along with the inquiry into the petition in respect of the resistance, obstruction, hindrance or ouster complained of, after due notice of the date of such investigation and inquiry has been given to all persons concerned.

326. (1) On the hearing of the matter of the petition and the claim made, if any, the court, if satisfied—

Punishment of person obstructing. [§10,53 of 1980.]

(a) that the resistance, obstruction, hindrance or ouster complained of was occasioned by the judgment-debtor or by some person at his instigation or on his behalf;

- (b) that the resistance, obstruction, hindrance or ouster complained of was occasioned by a person other than the judgment-debtor, and that the claim of such person to be in possession of the property, whether on his own account or on account of some person other than the judgment-debtor, is frivolous or vexatious; or
- (c) that the claim made, if any, has not been established,

shall direct the judgment-creditor to be put into or restored to the possession of the property and may, in the case specified in paragraph (a), in addition sentence the judgment-debtor or such other person to imprisonment for a period not exceeding thirty days,

[§41, Law 20 of 1977.]

(2) Where any claim is established only to a share of any property, it shall be competent to the court in any order made under the preceding subsection to direct that the judgment-creditor be put into or restored to possession of the share of the property to which no claim has been established.

[§41, Law 20 of 1977.]

(3) The court may make such order as to the costs of the application, the charges and expenses incurred in publishing the notice and the hearing and the reissue of writ as the court shall deem meet.

If resistance be made by bona fide claimant in possession, court to dismiss the petition. [§41, Law 20 of 1977.]

327. Where the resistance or obstruction or hindrance or ouster is found by court to have been occasioned by any person other than the judgment-debtor, claiming in good faith to be in possession of the whole of such property on his own account or on account of some person other than the judgment-debtor by virtue of any right or interest, or where the claim notified is found by the court to have been made by a person claiming to be in possession of the whole of such property on his own account or on account of some person other than the judgment-debtor, by virtue of any right or interest, the court shall make order dismissing the petition.

328. Where any person other than the judgment-debtor or a person in occupation under him is dispossessed of any property in execution of a decree, he may, within fifteen days of such dispossession, apply to the court by petition in which the judgment-creditor shall be named respondent complaining of such dispossession. The court shall thereupon serve a copy of such petition on such respondent and require such respondent to file objections, if any, within fifteen days of the service of the petition on him. Upon such objections being filed or after the expiry of the date on which such objections were directed to be filed, the court shall, after notice to all parties concerned, hold an inquiry. Where the court is satisfied that the person dispossessed was in possession of the whole or part of such property on his own account or on account of some person other than the judgment-debtor, it shall by order direct that the petitioner be put into possession of the property or part thereof, as the case may be.

Court shall investigate dispute if bona fide claimant be dispossessed in effecting the execution. [§41, Law 20 of 1977.]

329. No appeal shall lie from any order made under section 326 or section 327 or section 328 against any party other than the judgment-debtor. Any such order shall not bar the right of such party to institute an action to establish his right or title to such property.

Effect of order made under section 326 or section 327 or section 328. [§41, Law 20 of 1977.]

330. Any subsequent resistance or obstruction to the execution of the writ or hindrance to the possession or ouster of the judgment-creditor within a year and a day of the delivery of possession —

How subsequent obstruction to be dealt with. [§11.53 of 1980.]

- (a) by the judgment-debtor or any other respondent to the petition under section 325, or
- (b) where a notice under subsection (2) of section 325 has been duly published, by any person whatsoever,

shall be punishable as a contempt of court.

DECREES FOR EXECUTION OF CONVEYANCE OR TRANSFER OF PROPERTY

Application for enforcement of decree for execution of any conveyance, how to be made.

331. If the decree is for the execution of a conveyance, or for the endorsement of a negotiable instrument, and the judgment-debtor neglects or refuses to comply with the decree, the decree-holder may prepare the draft of a conveyance or endorsement in accordance with the terms of the decree, and apply to the court by petition, not naming a respondent, to have the said draft served on the judgment-debtor.

Service of the draft conveyance on judgment-debtor.

332. (1) The court shall thereupon cause the draft and a copy of the petition to be served on the judgment-debtor in manner hereinbefore provided for serving a summons, together with a notice in writing stating that his objections, if any, thereto, shall be made within such time (mentioning it) as the court fixes in this behalf, and will come on before the court to be considered and determined on a day to be named in the notice for that purpose.

(2) The decree-holder may also tender a duplicate of the draft to the court for execution, supplying a stamp of the proper amount if a stamp is required by law.

(3) On proof of such service the court, or such officer as it appoints in this behalf, shall on the day appointed for the consideration of objections, if no objections are made, proceed to execute the duplicate so tendered, or may, if necessary, alter the same, so as to bring it into accordance with the terms of the decree, and execute the decree so altered.

Objections to draft.

But in the event of the judgment-debtor or any other party on that day objecting to the draft so served, provided the objections have been stated in writing and filed within the time fixed therefor, the court shall proceed to hear and determine such objections, and shall thereupon pass such order as it thinks fit, and execute, or alter and execute, the duplicate in accordance therewith.

Execution of the conveyance by the court.

333. The execution of a conveyance or the endorsement of a negotiable instrument by the court under the last preceding section

may be in the following form: "C. D., Judge of the court of (as the case may be), for A. B., in an action by E. F. against A. B.", or in such other form as the Supreme Court may from time to time prescribe, and shall have the same effect as the execution of the" conveyance or endorsement of the instrument by the party ordered to execute or, endorse the same, and such conveyance shall be binding and of force though not executed before a notary public. And the court shall deliver the original of such conveyance to the decree-holder, and shall transmit the duplicate to the Registrar of Lands for the district in which the land is situate, in like manner as now is or shall be required to be done by notaries in respect of deeds executed before them.

333A. In sections 331, 332, and 333 the expression "conveyance" includes "contract or other document".

Meaning of conveyance in sections 331, 332, and 333.

(E)&(F)

MANDATORY AND RESTRAINING DECREES

334. When a decree or order falling under either of the heads (E) or (F) has been passed, and the judgment-debtor has had an opportunity of obeying the decree or order, but has wilfully failed to obey it, application to the court for execution or enforcement of the decree or order may be made by the judgment-creditor by petition to which the judgment-debtor shall be made respondent; and which shall set out the damage, if any, caused to the judgment-creditor by the disobedience of the judgment-debtor to the decree or order.

Application for enforcement of mandatory decrees, how to be made.

And if the court on the hearing of such application is satisfied that the judgment-creditor is entitled to obtain execution or enforcement of the decree or order, it shall direct a writ of execution by seizure and sale of the judgment-debtor's property, or a warrant for the arrest of the judgment-debtor, or both, to issue to the Fiscal.

Court may issue writ of execution by seizure and sale.

335. The amount of money directed to be levied on the writ of execution issuing under the preceding section shall be the amount of pecuniary loss, if any, as nearly as the court can estimate it, which is

Amount to be levied under writ.

occasioned to the judgment-creditor by reason of the judgment-debtor's default in obeying the decree or order, and which the court shall award by way of compensation to the judgment-creditor by the order directing the writ to issue. And the execution of this writ and of the warrant of arrest issuing under the same section shall be effected according, and subject, to the rules prescribed for the writ of execution and warrant of arrest issued for the enforcement of decrees falling under head (A).

GENERAL PROVISIONS

Discretion of court to issue execution.

336. The court may in its discretion refuse to issue execution at the same time against the person and property of the judgment-debtor in cases when the judgment-creditor is entitled to apply for both simultaneously.

When subsequent application may be made for execution of decree partly satisfied- [§12,53 of 1980.]

337. (1) No application (whether it be the first or a subsequent application) to execute a decree, not being a decree granting an injunction, shall be granted after the expiration of ten years from—

- (a) the date of the decree sought to be executed or of the decree, if any, on appeal affirming the same; or
- (b) where the decree or any subsequent order directs the payment of money or the delivery of property to be made on a specified date or at recurring periods, the date of the default in making the payment or delivering the property in respect of which the applicant seeks to execute decree.

(2) Nothing in this section shall prevent the court from granting an application for execution of a decree after the expiration of the said term of ten years, where the judgment-debtor has by fraud or force prevented the execution of the decree at some time within ten years immediately before the date of the application.

[§12,53 of 1980.]

(3) Subject to the provisions contained in subsection (2), a writ of execution, if unexecuted, shall remain in force for one year only from its issue, but—

- (a) such writ may at any time, before its expiration, be renewed by the judgment-creditor for one year from the date of such renewal and so on from time to time ; or
- (b) a fresh writ may at any time after the expiration of an earlier writ be issued,

till satisfaction of the decree is obtained.

338. (1) If a decree has been passed jointly in favour of more persons than one, any one or more of such persons, or his or their legal representatives, may apply for the execution of the whole decree for the benefit of them all, or, where any of them has died, for the benefit of the survivors and those claiming under the deceased. The application for this purpose shall be made by petition to which the co-decree-holders or their representatives as well as the judgment-debtor shall be respondents.

Application by one of several decree-holders for execution of the decree for the benefit of all.

(2) If the court sees sufficient cause for allowing the decree to be executed on an application so made, it shall pass such order as it deems necessary for protecting the interests of the persons who have not Joined in the application.

(3) For the purposes of this Chapter-

[§42, Law 20 of 1977.]

- (a) "estate" means the gross value of the estate of the deceased ; and
- (b) "legal representative" means an executor or administrator or in the case of an estate below the value of twenty thousand rupees, the next of kin who have adiated the inheritance:

Provided, however, that in the event of any dispute arising as to who is the legal representative, the provisions of section 397 shall, *mutatis mutandis*, apply.

339. (1) If a decree is transferred by assignment in writing or by operation of law from the decree-holder to any other person, the transferee may apply for its execution by petition, to which all the parties to the action or their representatives shall be made respondents, to the court which passed it, and if on that application that court thinks fit, the transferee's name may be substituted

Application by assignee of a decree for execution thereof, how to be made.

for that of the transferor in the record of the decree, and the decree may be executed in the same manner and subject to the same conditions as if the application were made by such decree-holder:

Provided that where the decree has been transferred by operation of law, the transferor need not be made respondent to the petition;

Provided also that where a decree against several persons has been transferred to one of them, it shall not be executed against the others.

(2) In the case where one decree of court is seized in execution of another decree, the judgment-creditor of the second decree is in the situation of assignee of the judgment-creditor of the decree which is seized, provided the latter person is identical with the judgment-debtor of the decree in execution of which the seizure is made.

Transferee bound by equities.

340. Every transferee of a decree shall hold the same subject to the equities (if any) which the judgment-debtor might have enforced against the original decree-holder.

Legal representative of deceased debtor, how made liable.

341. (1) If the judgment-debtor dies before the decree has been fully executed, the holder of the decree may apply to the court which passed it, by petition, to which the legal representative of the deceased shall be made respondent, to execute the same against the legal representative of the deceased.

and extent of liability.

(2) Such representative shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and for the purpose of ascertaining such liability, the court executing the decree may on the application of the decree-holder compel the said representative to produce such accounts as it thinks fit.

Fiscal may adjourn sale-

342. The Fiscal may in his discretion adjourn a sale:

Provided that the date to which the sale is adjourned is published in the same manner as was the original notice of sale; and

Provided also that he report to the court in his return to the writ of execution, or sooner, the cause for which the adjournment was made.

343. (1) The court may for sufficient cause stay execution proceedings at any stage thereof, and make order for adjournment of a sale.

Stay of proceedings and adjournment of sale by court.

(2) The application to the court to stay proceedings shall be made by petition, to which all persons interested in the matter of the execution shall be made parties, and no such order shall be made until after payment of all Fiscal's fees then due.

344. All questions arising between the parties to the action in which the decree was passed, or their legal representatives, and relating to the execution of the decree, shall be determined by order of the court executing the decree, and not by separate action.

All questions arising in execution to be determined by order of court and not by separate action.

345. (1) If cross decrees between the same parties for the payment of money be produced to the court, execution shall be taken out only by the party who holds a decree for the larger sum, and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum.

Procedure where there are cross decrees between the parties.

(2) If the two sums be equal, satisfaction shall be entered up on both decrees.

Explanation 1.—The decrees contemplated by this section are decrees capable of execution at the same time and by the same court.

Explanation 2.—This section applies where either party is an assignee of one of the decrees and as well in respect of judgment-debts due by the original assignor as in respect of judgment-debts due by the assignee himself.

Explanation 3.—This section does not apply unless—

- (a) the decree-holder in one of the actions in which the decrees have been made is the judgment-debtor in the other and each party fills the same character in both actions, and
(b) the sums due under the decrees are definite and unconditional.

Illustrations

- (a) A holds a decree against B for one thousand rupees. B holds a decree against A for the payment of one thousand rupees in case A fails to deliver certain goods at a future day. B cannot treat his decree as a cross decree under this section.
- (b) A and B, co-plaintiffs, obtain a decree for one thousand rupees against C; and C obtains a decree for one thousand rupees against B. C cannot treat his decree as a cross decree under this section.
- (c) A obtains a decree against B for one thousand rupees. C, who is a trustee for B, obtains a decree on behalf of B against A for one thousand rupees. B cannot treat C's decree as a cross decree under this section.

Procedure where parties recover different amounts under same decree.

346. (1) When two parties are entitled under the same decree to recover from each other sums of different amounts, the party entitled to the smaller sum shall not take out execution against the other party; but satisfaction for the smaller sum shall be entered on the decree.

(2) When the amounts are equal, neither party shall take out execution, but satisfaction for each sum shall be entered on the decree.

Proceedings where one year has elapsed from date of decree.

347. In cases where there is no respondent named in the petition of application for execution, if more than one year has elapsed between the date of the decree and the application for its execution, the court shall cause the petition to be served on the Judgment-debtor, and shall proceed thereon as if he were originally named respondent therein:

Provided that no such service shall be necessary if the application be made within one year from the date of any decree passed on appeal from the decree sought to be executed or from the date of the last order against the party, against whom execution is applied for, passed on any previous application for execution.

348. Whenever a person has before the passing of a decree in an original action become liable as surety for the performance of the same or of any part thereof, the decree may be executed against him to the extent to which he has rendered himself liable in the same manner as a decree may be executed against a judgment-debtor, upon application made by the judgment-creditor to the court for that purpose by a petition to which the person sought to be made liable as surety shall be named respondent.

349. (1) If any money payable under a decree is paid out of court, or the decree is otherwise adjusted in whole or in part to the satisfaction of the decree-holder, he shall certify such payment or adjustment to the court whose duty it is to execute the decree.

(2) The judgment-debtor may also by petition inform the court of such payment or adjustment, and apply to the court to issue a notice to the decree-holder to show cause on a day to be fixed by the court why such payment or adjustment should not be recorded as certified. And if after due service of such notice the decree-holder fails to appear on the day fixed, or having appeared fails to show cause why the payment or adjustment should not be recorded as certified, the court shall record the same accordingly.

(3) No such payment or adjustment shall be recognized by any court unless it has been certified as aforesaid.

350. (1) Money, which in the course of an action or in satisfaction of a decree has been paid into and received by the court shall be paid to the person entitled to the same, on his *ex parte* application.

(2) Where—

- (a) before money realized in execution of a decree, other than money received or seized by the Fiscal from the judgment-debtor in payment of the amount of the writ before the sale in execution of any

Execution against surety.

Decree-holder to certify payment to the court.

Concurrence and preference. [§43, Law 20 of 1977.]

property belonging to him or being current coin or currency notes seized by the Fiscal, is paid to the decree-holder in the action in which the execution issued, or

- (b) before money other than money realized in execution of a decree is paid to a judgment-creditor seizing such money,

notice is given to the court of any claim to such money—

- (i) by a person claiming to be entitled to preferential payment by reason of any mortgage, charge or lien in his favour;
- (ii) by a person holding a decree against the same judgment-debtor, whether entered by the same or another court; or
- (iii) by the Fiscal in respect of claims of other writ-holders whose writs he had in his hands at the time of the sale in cases where a sale is carried out by him in execution,

the money shall first be paid to the persons, if any, entitled to receive payment preferentially, and shall next be rateably distributed among the decree-holders in the action or the judgment-creditor seizing such money and all other decree-holders whose claims have been notified to court under paragraphs (ii) and (iii) above.

(3) Before the court makes order under the preceding subsection, notice shall be given to the parties to the action and all persons whose claims have been notified to court under that subsection that the court will on a day to be specified in the notice proceed to hear and determine the claims to the money in court.

(4) On the day so specified or on some other day to which the court may for sufficient cause adjourn the hearing, the court shall proceed to hear and adjudicate upon the claims made and make such order as the justice of the case may require, or the court may, if in its opinion any claim cannot be conveniently heard and adjudicated

upon, refer the parties to a separate action and may continue to hold the money or any part thereof pending the decision of the separate action.

351. Where property not in the custody of any court has been seized in execution of decrees of more courts than one, the court which shall receive or realize such property and shall determine any claim thereto and any objection to the seizure thereof shall be the court of highest grade, or, where there is no difference in grade between such courts, the court under whose decree the property was first seized.

Where the same property is seized in execution of decrees of more courts than one.

352. (1) Whenever assets are realized by sale or otherwise in execution of a decree, and more persons than one have prior to the realization, applied to the court by which such assets are held for execution of decrees for money against the same judgment-debtor, and have not obtained satisfaction thereof, the assets, after deducting the costs of the realization, shall be divided rateably among all such persons :

Where several decree-holders are entitled to share rateably in proceeds of a sale of debtor's property.

Provided that, when any property is sold which is subject to a mortgage or charge, or for any other reason remains subject to a mortgage or charge notwithstanding the sale, the mortgagee or incumbrancer shall not as such be entitled to share in any proceeds arising from such sale.

(2) If all or any portion of the money realized in execution of a decree is in the distribution made under the last preceding section paid to a person not entitled to receive the same, any person who is so entitled may sue such person to compel him to refund the money.

Share of such proceeds paid to wrong person may be recovered by action by person entitled.

353. Every order made by a court, in any action or proceeding between parties, for payment of money not being a fine, shall have the effect of a decree for the payment of money, and on default of payment according to its terms shall be enforceable upon the application of the party at whose instance it was made in like manner as a decree for money.

Order for payment of money enforced as a decree.

354. In the event of an order being made by the civil court under the provisions of this Ordinance for the payment of a fine,

Fine imposed by civil court how to be levied.

and in the event of the fine not being paid into court at the time appointed therefor by the order, the amount of the said fine shall be levied by the Fiscal from the property of the person against whom the order was made; and the court shall forthwith, on the occurrence of the default, of its own motion issue its writ or precept to the Fiscal for this purpose.

CHAPTER XXIII

OF SERVICE OF PROCESS

Writs or warrants to be usually issued to the Fiscal for execution, [§44 Law 20 of

355. Writs or warrants to levy money, or to take any person in arrest, or to detain any person in custody, or to deliver possession of property, shall usually be directed to the Fiscal of the court issuing the writ or warrant; but any such writ or warrant may be issued to any grama seva niladhari, constable or officer of police. And where any such writ or warrant is issued by the Supreme Court, the Court of Appeal, or by any court within the local limits of whose jurisdiction the party against whom it is issued does not actually and voluntarily reside, or carry on business, or personally work for gain, or is not possessed of property sufficient to satisfy the same, such writ or warrant shall be issued to the Fiscal of a court within the jurisdiction of which such party does actually and voluntarily reside or carry on business, or personally work for gain, or is possessed of such property.

To whom may all processes of court not being writs or warrant be directed [§45, Law 20 of 1977.]

356. All processes of court not being writs, or warrants directed to the Fiscal or other person for execution, and all notices and orders required by this Ordinance to be given to or served upon any person, shall, unless the court otherwise directs, be issued for service to the Fiscal of the court issuing such processes, notices, or orders under a precept of that court as is hereinbefore provided for the case of the summons to the defendant in an action. And the provisions of this Ordinance from section 59 to section 70, both inclusive, relative to the service of such summons shall apply, so far as is practicable, to the service of such processes, notices, and orders. Whenever it becomes necessary to serve any such processes outside the local limits of the jurisdiction of the court issuing them, it shall be competent

to such court to issue such processes, notices and orders for service to the Fiscal of any other court of like jurisdiction within the local limits of the jurisdiction of which such processes, notices and orders have to be served.

357. It shall be the duty of every Fiscal, upon receiving any writ, or warrant, or precept directed to him by any court, by himself or by his officers, to execute such writ or warrant, and to serve every process, notice, or order conveyed to him under such precept according to the exigency of the writ, warrant, or precept.

Fiscal to execute and serve processes of court.

358. All proceedings for attachment, contempt, or otherwise against a Fiscal or Deputy Fiscal for neglect or refusal to serve process or to comply with any order or direction of the court in connection therewith shall, where such Fiscal or Deputy Fiscal is the Fiscal or Deputy Fiscal of a court other than that of the court issuing such process, order, or direction, be referred by such court to the court to which such Fiscal or Deputy Fiscal is attached, and shall be dealt with by the latter court as if such neglect or refusal related to its own process or orders.

Proceedings against Fiscal for contempt, &c. [§46, Law 20 of 1977.]

359. It shall be the duty of every grama seva niladhari, constable, or officer of police, upon receiving any writ or warrant or precept directed to him by any court, to execute such writ or warrant and to serve every process, notice, or order conveyed to him under such precept according to the exigency of the writ, warrant, or precept in any place within the district or division in which such grama seva niladhari, constable, or officer is empowered to act.

Grama seva niladhari or constable to execute or serve processes in his own limits only.

360. It shall be competent to any Fiscal to whom any writ, warrant, or precept has been directed under the foregoing sections, and to the Fiscal's officer to whom the Fiscal may have entrusted such writ, warrant, or precept for execution, to endorse thereon the name of any grama seva niladhari, constable, or officer of police; and such endorsement shall operate in the case of a grama seva niladhari, constable or officer of police to constitute the person whose name is endorsed an officer of the Fiscal for the purpose of executing such writ, or warrant, or precept.

Endorsement of process by Fiscal. [§47, Law 20 of 1977.]

Duty of every Fiscal to assist. [§48, Law 20 of 1977.]

361. Every Fiscal and Fiscal's officer shall, and every grama seva niladhari, constable, or officer of police shall, within the local limits in which he is empowered to act, afford his aid and assistance to anyone charged under the foregoing sections with the duty of executing any writ or warrant, or of serving any process, notice, or order of court.

Every writ or process to be valid for the whole of Sri Lanka. [§ 49, Law 20 of 1977]

362. Every mandate, writ, warrant, precept, or other process issuing from the Supreme Court, the Court of Appeal, or from any District Court or Family Court or Primary Court shall have full force and validity in every place throughout Sri Lanka ; and every person charged under the foregoing sections with the duty of executing any such process shall be protected thereby from civil liability for loss or damage caused by, or in the course of, or immediately consequential upon, the execution of such process by him, or in the case of the Fiscal by his officers, except when the loss or damage for which the claim is made is attributable to any fraud, gross negligence, or gross irregularity of proceeding, or gross want of ordinary diligence or abuse of authority on the part of the person executing such process:

Provided that no action shall be maintainable against any person charged as aforesaid with the duty of executing any such process in respect to his execution thereof, unless previous notice in writing distinctly setting forth the grounds of such action shall have been given to him by or on behalf of the plaintiff one month at least before the commencement of such action, and unless such action shall be brought within nine months after the cause of action shall have arisen;

And provided further, that it shall be lawful for the person to whom such notice of action has been given at any time before the commencement of such action to tender amends to the party aggrieved, and if the same be refused to plead such tender, at the same time paying into court for the use of the plaintiff the amount so tendered, and if the court by its judgment in the action shall hold that the amount so tendered and paid into court is sufficient amends for the party

aggrieved, the decree shall be passed in favour of the plaintiff for such amount, but he shall be condemned to pay all costs.

363. The seizure or sale of property, which does not belong to the person whose property is authorized by a writ of levy to be seized and sold, shall not be deemed to be an act done by or in the course of, nor an immediate consequence of, the execution of such writ within the meaning of the first paragraph of the last preceding section. But no person charged as aforesaid shall be liable in damages for any such seizure or sale, if the same shall be shown to have been effected under the bona fide belief that the property did belong to the person whose property is authorized to be seized or sold.

What acts not within last section.

364. Unless otherwise in this Ordinance enacted the precept of the court to the Fiscal directing the service of any process, order, or notice, or other document, not amounting to a writ to levy money, or to take any person in arrest, or to detain any person in custody, or do deliver possession of property shall be in the form No. 17 in the First Schedule.

Form of precept.

365. Process in civil cases, whether at the suit of the State or individuals, shall not be served or executed between the period of sunset and sunrise, nor on a public holiday, nor on any minister of religion, a bhikku or other priest or religious functionary while performing his functions in any place of public worship nor upon any individual of any congregation during the performance of public worship at any such place.

When process may not be served. [§ 50, Law 20 of 1977.J

366. The outer door of any dwelling house shall not be forced open in order to seize the person under civil process issued at the suit of a private individual, excepting such person shall have escaped or shall have been rescued after having been duly arrested.

Outer door not to be forced.

367. If the person executing any process under this Ordinance, directing or authorizing seizure of movable property, has obtained entrance into a house or other building, he may unfasten and open the door of any room in which he has reason to believe any such property to be.

Ineffecting seizure of movable property inner door may be opened.

Person executing process always to have writ with him or copy.

368. The person employed in carrying into effect any process of execution against either person or property shall always have with him the writ, warrant, or mandate of execution, or a copy of the same authenticated by the Fiscal or Deputy Fiscal, which shall, if required, be produced and shown to the party against whom, or against whose property, it is sought to be put in force.

Body of person to be arrested must be seized or touched.

369. In all civil cases where process of execution may issue against the person of a party, it shall be necessary, in order to constitute an arrest, that the body of the person to be arrested shall be actually seized or touched by the officer executing the process, unless such person express his acquiescence in the arrest without being so seized or touched.

Fiscal's return of writ or precept.

370. (1) Every Fiscal or Deputy Fiscal shall, on the receipt of any process, note thereon the day he received the same, and on the service or execution thereof the date and mode of such service or execution.

(2) When the writ of execution or precept for service has been carried into effect, or on the day appointed in the writ or precept for the return thereof, whichever date shall first occur, the Fiscal or Deputy Fiscal shall return the writ or precept to the court from which it issued with his report of what has been done under it.

Report to be accompanied by affidavit to be attached as an exhibit.

371. The report of the Fiscal or Deputy Fiscal constituting his return to the writ of execution or to the precept for service of any process shall be fair written and shall state concisely the mode in which the process has been served, or the steps which have been taken to effect service; and shall be accompanied by an affidavit made by the officer charged with the duty of executing the process, which affidavit shall set out the facts of the service effected or of the endeavour made by the officer to effect the service. The process and the affidavit shall be attached to the report as exhibits, and shall be referred to therein by means of a distinguishing letter or other mark put upon them, each initialled and dated by the Fiscal.

372. The Fiscal or Deputy Fiscal, or other person specially appointed by the Minister in charge of the subject of Justice in that behalf, is hereby authorized to administer the oath or affirmation which is requisite to the making of the affidavit in the last section mentioned. And every officer who makes a false statement of fact in any such affidavit commits (in addition to any offence of which under the provisions of the Penal Code he may by so doing be guilty) an offence which is punishable as contempt of court.

Power of Fiscal or other person to administer oath therefor.

PART II

OF SUMMARY PROCEDURE

CHAPTER XXIV

OF SUMMARY PROCEDURE

373. Every application to the court, or action, of summary procedure shall be instituted upon a duly stamped written petition presented to court by the applicant.

Summary procedure by petition. [§ 51, Law 20 1977.]

374. The petition shall be distinctly written upon good and suitable paper, and shall contain the following particulars :—

Form of petition. [§ 52, Law 20 1977.]

- (a) the name of the court and date of presenting the petition;
- (b) the name, description, and place of abode of the petitioner or petitioners;
- (c) the name, description, and place of abode of the respondent or respondents;
- (d) a plain and concise statement of the facts constituting the ground of the application and its circumstances, and of the petitioner's right to make it. Such statement shall be set forth in duly numbered paragraphs;
- (e) a prayer for the relief or order which the petitioner seeks.

375. If the application is instituted in the course of, or as incidental to, a pending action, whether of regular or summary procedure, the petition shall be headed with

If incidental to an action, petition to be entitled therein.

a reference to its number in the court, and the names of the parties thereto, and shall be filed as part of the record of such action, and all proceedings taken and orders made on such petition shall be duly entered in the journal required to be kept by section 92.

served upon the respondent by the Fiscal in the manner and subject to the rules hereinbefore prescribed for the service of the summons in a regular action.

Service on respondent.

Affidavits and exhibits to be attached to petition.

376. With the petition, and so far as conveniently can be attached thereto, shall be exhibited such affidavits, authenticated copy records, processes, or other documentary evidence as may be requisite to furnish prima facie proof of the material facts set out or alleged in the petition, or the court may in its discretion permit or direct the petitioner to adduce oral evidence before the court for this purpose, which shall be taken down by the court in writing.

380. If the court is not satisfied on the evidence exhibited or adduced that the material facts of the petition are prima facie established or is of opinion that on the footing of those facts the petitioner is not entitled to the relief which he asks, then in either case the court shall refuse the petition.

If grounds are insufficient, petition to be refused.

If grounds are sufficient, order may be nisi, or interlocutory.

377. If the court is satisfied on the evidence exhibited or adduced that the material facts of the petition are prima facie established or is of opinion that on the footing of these facts the petitioner is entitled to the remedy, or to the order in his favour, for which the petition prays, or any part thereof, then the court shall accordingly make either—

381. The petition, with its exhibits, adduced evidence, and the order made thereon, shall be filed in court whether the order is in the alternative (a) or (b) of section 377, or is an order refusing the petition.

petition and order thereon to be filed.

- (a) an order *nisi*. conditioned to take effect in the event of the respondent not showing cause against it on a day appointed by the order for that purpose; or
- (b) an interlocutory order appointing a day for the determination of the matter of the petition, and intimating that the respondent will be heard in opposition to the petition if he appears before the court for that purpose on the day so appointed.

382. If on the day appointed in an order made under section 377 for the determination of the matter of the petition, the petitioner does not appear before the court either in person or by his registered attorney to support the petition, the court shall dismiss the petition, and shall have power to make such order for the payment of costs by the petitioner to the respondent as to the court shall seem just.

Non-appearance of petitioner on day appointed.

383. (1) If on such day the petitioner appears, and the respondent does not appear, and if the court is satisfied by the affidavit of the serving officer, stating the fact of the service, or by oral evidence, that the order has been duly served upon the respondent in time reasonably sufficient to enable him to appear, then if the order is an order *nisi* made under (a) of section 377, the court shall make it absolute, and shall pass no other order adverse to the respondent; but otherwise it shall make such order within the prayer of the petition as it shall consider right on the facts proved :

When court may take order nisi absolute.

Order as to costs.

378. In the alternative (a) of section 377 the order *nisi* may comprise an order against the respondent, or any of the respondents, to pay the costs of the petitioner.

Form of order.

379. In either of the alternatives (a) and (b) of section 377 the order made shall be put into writing, and shall contain a prefatory recital of the petition, and of the exhibits and other evidence adduced in support thereof. And a copy of the order together with a copy of the petition shall be

Provided, however, that in the latter case the court shall make no order to pay costs against the respondent, except in cases where the prayer of the petition expressly asks for the costs of the application, and the court thinks it fit that the respondent should pay them.

(2) Nothing in this section shall prevent the court from dismissing the petition at this stage in the absence of the respondent, if it sees reason to think that the order ought not to have issued in the first instance.

Proceedings where both parties appear.

384. If on such day both the petitioner and the respondent appear, the proceedings on the matter of the petition shall commence by the respondent in person, or by his registered attorney, stating his objections, if any, to the petitioner's application; and the respondent shall then be entitled to read such affidavits or other documentary evidence as may be admissible, or by leave of the court to adduce oral evidence in support of his objections, or to rebut and refute the evidence of the petitioner:

Provided that no affidavit or other documentary evidence shall be so read without express leave of court, unless a copy of the document shall have been served on the petitioner or his registered attorney at least forty eight hours before the day when the matter of the petition comes on to be heard and determined; and the oral evidence shall be taken down in writing by the Judge.

Right to reply.

385. In the event of the respondent stating objections to the application, and not otherwise, and after the respondent's evidence, if any, shall have been read or given, the petitioner shall be entitled by way of reply to comment upon the respondent's case.

Additional evidence when admitted.

386. When the respondent's evidence has been taken, it shall be competent to the court, on the request of the petitioner, to adjourn the matter to enable the petitioner to adduce additional evidence; or, if it thinks necessary, it may frame issues of fact between the petitioner and respondent, and adjourn the matter for the trial of these issues by oral testimony. And on the day to which the matter is so adjourned, the additional evidence shall be adduced, and the issues tried in conformity with, as nearly as may be, the rules hereinbefore prescribed for the taking of evidence at the trial of a regular action.

387. The court, after the evidence has been duly taken and the petitioner and respondent have been heard either in person or by their respective attorneys-at-law or recognized agents, shall pronounce its final order in the matter of the petition in open court, either at once or on some future day, of which notice shall be given in open court at the termination of the trial. Final order.

388. (1) The final order so pronounced may be endorsed on the order *nisi* or on the interlocutory order, as the case may be. Endorsement on order nisi.

(2) In the case of the order *nisi*, the final order, if endorsed, will be *simpliciter* either in the shape of "order discharged" or of "order made absolute":

Provided that an order *nisi*, if it consists of separable parts, may be discharged in part and made absolute in part; and nothing herein enacted shall prevent any order being made by consent of the petitioner and respondent on the footing of the order *nisi*.

(3) In the case of the interlocutory order, the court may make such order within the prayer of the petition as it shall consider right on the facts proved, and it may make any such order upon the petitioner and respondent for the payment of costs as to the court shall seem just.

389. No appeal by a respondent shall lie against any final order which has been made, in the case of the respondent's non-appearance, on the footing of either an order *nisi* or an interlocutory order in the matter of a petition; but it shall be competent to the court, within a reasonable time after the passing of such order, to entertain an application in the way of summary procedure instituted by any respondent against whom such order has been made, to have such final order set aside upon the ground that the applicant had been prevented from appearing after notice of the order *nisi* or interlocutory order by reason of accident or misfortune, or that such order *nisi* or interlocutory order had never been served upon him. And if the ground of such application is duly established to the satisfaction of the court, as against the original petitioner, the court Final order made on non-appearance of respondent, not appealable, but may be set aside.

may set aside the final order complained of upon such terms and conditions as the court shall consider it just and right to impose upon the applicant, and upon the final order being so set aside, the court shall proceed with the hearing and determination of the matter of the original petition as from the point at which the final order so set aside was made.

394. (1) If there are more plaintiffs than one, and any of them dies, and if the right to sue does not survive to the surviving plaintiff or plaintiffs alone, but survives to him or them and the legal representative of the deceased plaintiff jointly, the court may cause the legal representative, if any, of the deceased plaintiff to be made a party, and shall thereupon cause an entry to that effect to be made on the record and proceed with the action.

If, on death of one of several plaintiffs, the right to sue survives to the rest jointly with legal representative of deceased, legal representative may be made plaintiff.

Parties to an action of summary procedure.

390. In an application, or action, of summary procedure the persons, petitioning or respondent, are the parties to the action.

(2) For the purposes of this Chapter—

[§53, Law 20 of 1977.]

" estate" means the gross value of the estate of the deceased ; and

" legal representative " means an executor or administrator, or in the case of an estate below the value of twenty thousand rupees, the next of kin who have adiated the inheritance.

Journal in an action of summary procedure.

391. On the institution of an application of summary procedure which is not made in, or incidental to, any already pending action, the court shall commence and keep a journal entitled as of the matter of the application, according to the rules prescribed in section 92, and this journal so kept shall be the record of the matter of the application.

395. In case of the death of a sole plaintiff or sole surviving plaintiff the legal representative of the deceased may, where the right to sue survives, apply to the court to have his name entered on the record in place of the deceased plaintiff, and the court shall thereupon enter his name and proceed with the action.

On death of sole plaintiff, legal representative may be substituted.

PART III

INCIDENTAL PROCEEDINGS

CHAPTER XXV

OF THE CONTINUATION OF ACTIONS AFTER ALTERATION OF A PARTY'S STATUS

On death of a party action does not abate if right to sue survives.

392. The death of a plaintiff or defendant shall not cause the action to abate if the right to sue on the cause of action survives.

396. If no such application be made to the court by any person claiming to be the legal representative of the deceased plaintiff, the court may pass an order that the action shall abate, and award to the defendant the costs which he may have incurred in defending the action, to be recovered from the estate of the deceased plaintiff; or the court may, if it think proper, on the application of the defendant, and upon such terms as to costs or otherwise as it thinks fit, pass such other order as it thinks fit for bringing in the legal representative of the deceased plaintiff or for proceeding with the action in order to a final determination of the matter in dispute, or for both those purposes,

If no application is made by legal representative action may be declared to abate.

On death of one out of more plaintiffs or defendants than one, if right to sue survive to or against the rest, action to proceed.

393. If there be more plaintiffs or defendants than one and any of them dies, and if the right to sue on the cause of action survives to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the court shall, on application in the way of summary procedure, make an order to the effect that the action do proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants.

397. In the event of any dispute arising as to who is the legal representative of a deceased plaintiff, it is competent to the court either to stay the action until the question has been decided in another action, or to decide at once, as between the parties

In case of dispute, court to decide who is legal representative.

before it, who shall be admitted to be such legal representative for the purpose of prosecuting the action. And this question shall in such case be dealt with and tried by the court as an issue preliminary to the trial of the merits of the action.

Of substitution of legal representative of deceased defendant.

398. (1) If there be more defendants than one, and any of them die before decree and the right to sue on the cause of action does not survive against the surviving defendant or defendants alone, and also in case of the death of a sole defendant, or sole surviving defendant, where the right to sue survives, the plaintiff may make an application to the court, specifying the name, description, and place of abode of any person whom he alleges to be the legal representative of the deceased defendant, and whom he desires to be made the defendant in his stead. The court shall thereupon, on being satisfied that there are grounds therefor, enter the name of such representative on the record in the place of such defendant, and shall issue a summons to such representative to appear on a day to be therein mentioned to defend the action, and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant, and had been a party to the former proceedings in the action:

Provided that the person so made defendant may object that he is not the legal representative of the deceased defendant, or may make any defence appropriate to his character as such representative.

(2) The legal representative of a deceased defendant may apply to have himself made a defendant in place of a deceased defendant, and the provisions of this section, so far as they are applicable, shall apply to the application and to the proceedings and consequences ensuing thereon.

Action not abated by marriage of female party.

399. (1) The marriage of a female plaintiff or defendant shall not cause the action to abate, but the action may, notwithstanding, be proceeded with to Judgment; and where the decree is against a female defendant, it may thereupon be executed against her alone.

(2) If the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may, with such permission, be issued upon the application of the husband where the husband is by law entitled to the subject-matter of the decree.

400. The bankruptcy or insolvency of a plaintiff in any action which his assignee might maintain for the benefit of his creditors shall not bar the action, unless such assignee declines to continue the action and to give security for the costs thereof, within such time as the court may order,

Effect of bankruptcy of plaintiff.

401. If the assignee neglects or refuses to continue the action and to give such security within the time so ordered, the defendant may apply for the dismissal of the action on the ground of the plaintiff's bankruptcy or insolvency, and the court may dismiss the action and award to the defendant the costs which he has incurred in defending the same, to be proved as a debt against the plaintiff's estate.

When assignee does not continue action.

402. If a period exceeding twelve months in the case of a District Court or Family Court, or six months in a Primary Court, elapses subsequently to the date of the last entry of an order or proceeding in the record without the plaintiff taking any steps to prosecute the action where any such step is necessary, the court may pass an order that the action shall abate.

When court itself may order action to abate.

403. When an action abates or is dismissed under this Chapter, no fresh action shall be brought on the same cause of action.

No fresh action to be brought where action has abated; but court may set aside order.

But the plaintiff or the person claiming to be the legal representative of a deceased or insolvent plaintiff may, within such period of time as may seem to the court under the circumstances of the case to be reasonable, apply for an order to set aside the order for abatement or dismissal; and if it be proved that he was prevented by any sufficient cause from continuing the action the court shall set aside the abatement or dismissal upon such terms as to costs or otherwise as it thinks fit.

Continuation of action in other cases of assignment of party's interest.

404. In other cases of assignment, creation, or devolution of any interest pending the action, the action may, with the leave of the court, given either with the consent of all parties or after service of notice in writing upon them, and hearing their objections, if any, be continued by or against the person to whom such interest has come, either in addition to or in substitution for the person from whom it has passed, as the case may require.

Applications under this Chapter how to be made.

405. The application under section 398 may be made *ex parte*, but in all other applications for the exercise of the discretion of the court under this Chapter all the parties to the action, not being the applicants, or such of them as may be affected by the order sought, must be made respondents on the face of the application.

407. In any fresh action instituted on permission granted under the last preceding section, the plaintiff shall be bound by the law of prescription or limitation in the same manner as if the first action had not been brought.

Permission to bring fresh action not to affect prescription.

408. If an action be adjusted wholly or in part by any lawful agreement or compromise, or if the defendant satisfy the plaintiff in respect to the whole or any part of the matter of the action, such agreement, compromise, or satisfaction shall be notified to the court by motion made in presence of, or on notice to, all the parties concerned, and the court shall pass a decree in accordance therewith, so far as it relates to the action, and such decree shall be final, so far as relates to so much of the subject-matter of the action as is dealt with by the agreement, compromise, or satisfaction.

Adjustment of actions out of court.

CHAPTER XXVI

OF THE WITHDRAWAL AND
ADJUSTMENT OF ACTION

withdrawal and adjustment of action.

406. (1) If, at any time after the institution of the action, the court is satisfied on the application of the plaintiff—

- (a) that the action must fail by reason of some formal defect, or
- (b) that there are sufficient grounds for permitting him to withdraw from the action or to abandon part of his claim with liberty to bring a fresh action for the subject-matter of the action, or in respect of the part so abandoned,

the court may grant such permission on such terms as to costs or otherwise as it thinks fit.

(2) If the plaintiff withdraw from the action, or abandon part of his claim, without such permission, he shall be liable for such costs as the court may award, and shall be precluded from bringing a fresh action for the same matter or in respect of the same part.

(3) Nothing in this section shall be deemed to authorize the court to permit one of several plaintiffs to withdraw without the consent of the others.

CHAPTER XXVII

OF PAYMENT OF MONEY INTO COURT

409. The defendant in any action brought to recover a debt or damage may, at any stage of the action, deposit in court such sum of money as he considers a satisfaction in full of the plaintiffs claim.

Payment of money into court.

410. Notice in writing of the deposit shall be given by the defendant to the plaintiff, and the amount of the deposit shall (unless the court otherwise directs) be paid out of court to the plaintiff on his application.

Notice thereof.

411. No interest shall be allowed to the plaintiff on any sum deposited by the defendant from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

Interest on deposit not allowed to plaintiff after notice.

412. If the plaintiff accepts such amount only as satisfaction in part of his claim, he may prosecute his action for the balance; and if the court eventually decides that the deposit by the defendant was a full satisfaction of the plaintiffs claim, the plaintiff must pay the costs of the action incurred after the deposit and the costs incurred previous thereto, so far as they were caused by excess in the plaintiffs claim.

Procedure where plaintiff accepts payment in part satisfaction of his claim.

Procedure where plaintiff accepts payment in full satisfaction of his claim.

413. If the plaintiff accepts such amount as satisfaction in full of his claim, he shall present to the court a statement to that effect, embodied in a motion for judgment, and the court shall pass judgment accordingly, and in directing by whom the costs of each party are to be paid the court shall consider which of the parties is most to blame for the litigation.

Illustrations

- (a) A owes B one hundred rupees. B sues A for the amount, having made no demand for payment, and having no reason to believe that the delay caused by making a demand would place him at a disadvantage. On the plaint being filed, A pays the money into court. B accepts it in full satisfaction of his claim, but the court should not allow him any costs, the litigation being presumably groundless on his part.
- (b) B sues A under the circumstances mentioned in illustration (a). On the plaint being filed, A disputes the claim. Afterwards A pays the money into court. B accepts it in full satisfaction of his claim. The court should also give B his costs of action, A's conduct having shown that the litigation was necessary.
- (c) A owes B one hundred rupees, and is willing to pay him that sum without action. B claims one hundred and fifty rupees, and sues A for that amount. On the plaint being filed, A pays one hundred rupees into court, and disputes only his liability to pay the remaining fifty rupees. B accepts the one hundred rupees in full satisfaction of his claim. The court should order him to pay A's costs.

Money must be actually paid.

414. When a defendant by his answer or any party to an action by petition professes to pay money into court, or when a defendant by his answer sets up a tender of any sum of money before action brought, the answer or the petition shall not be received or filed by the court unless either the sum of money so professed to have been paid into court, or so alleged to have been tendered, is actually paid into court, or the requisite steps for the purpose are taken by the defendant or other party, as the case may be.

This Chapter to apply to any party.

415. The enactments of this Chapter shall apply, *mutatis mutandis*, to the case of payment of money into court made by any party to the action in satisfaction of the claim of any other party.

CHAPTER XXVIII

OF SECURITY FOR COSTS

416. If at the institution, or at any subsequent stage, of an action, it appears to the court that a sole plaintiff is, or (when there are more plaintiffs than one) that all the plaintiffs are, residing outside Sri Lanka, the court may in its discretion, and either of its own motion or on the application of any defendants, order the plaintiff or plaintiffs, within a time to be fixed by the order, to give security for the payment of all costs incurred and likely to be incurred by any defendant.

Security for costs where plaintiff resident out of Sri Lanka. [§54, Law 20 of 1977.]

417. If at the institution, or at any subsequent stage, of an action, it appears to the court that the defendant, or (where there are more defendants than one) that any defendant, is residing outside Sri Lanka, the court may in its discretion, and either of its own motion or on the application of such defendant, order the plaintiff or plaintiffs, within a time to be fixed by the order, to give security for the payment of all costs incurred and likely to be incurred by such defendant.

Security for costs where defendant resident out of Sri Lanka. [§54, Law 20 of 1977.]

418. (1) In the event of such security not being furnished within the time so fixed, the court shall dismiss the action, unless the plaintiff or plaintiffs be permitted to withdraw therefrom under the provisions of section 406, or show good cause why such time should be extended, in which case the court may extend it.

If security not furnished when ordered, action may be dismissed.

(2) When an action is dismissed under this section the plaintiff may within thirty days, and after due notice in writing to the defendant, apply for an order to set the dismissal aside, and if it is proved to the satisfaction of the court that he was prevented by any sufficient cause from furnishing the security within the time allowed, the court shall set aside the dismissal upon such terms as to security, costs, or otherwise as it thinks fit, and shall appoint a day for proceeding with the action.

Dismissal may be set aside.

419. Whoever leaves, or is about to leave, Sri Lanka under such circumstances as to afford reasonable probability that he

What amounts to residing out of Sri Lanka. [§55, Law 20 of 1977.]

will not be forthcoming whenever he may be called upon to pay costs, shall be deemed to be residing outside Sri Lanka within the meaning of section 416 or 417.

Provided that, under special circumstances, the commission may be directed to any person whom the court issuing the commission thinks fit to appoint.

CHAPTER XXIX

OF COMMISSIONS

A.—COMMISSIONS TO EXAMINE WITNESSES

Commission to examine sick person, &c., within jurisdiction.

420. Any court may in any action issue a commission for the examination on interrogatories or otherwise, and on oath or affirmation, of persons resident within the local limits of its jurisdiction who are from sickness or infirmity unable to attend the court, or of women who, according to the customs and manners of the country, ought not to be compelled to appear in public.

To whom may commission issue.

421. The commission for the examination of a person who resides within the local limits of the jurisdiction of the court issuing the same may be issued to any person whom the court thinks fit to execute the same.

Commission to examine in other cases.

422. (1) Any court may in any action issue a commission for the examination of—

- (a) any person resident beyond the local limits of its jurisdiction;
- (b) persons who are about to leave such limits before the date on which they are required to be examined in court; and
- (c) civil and military officers of Government who cannot in the opinion of the Judge attend the court without detriment to the public service; and
- (d) Women who, according to the customs and manners of the country, ought not to be compelled to appear in public.

To whom may commission issue.

(2) Such commission shall ordinarily be issued to any court, except the Supreme Court., the Court of Appeal and the High Court, within the local limits of whose jurisdiction such person resides, and which can most conveniently execute the same :

When may court issue commission to examine person outside Sri Lanka.

423. When any court to which application is made for the issue of a commission for the examination of a person residing at any place not within Sri Lanka is satisfied that his evidence is necessary, the court may issue such commission.

Court to execute the commission.

424. Every court receiving a commission for the examination of any person shall examine him pursuant thereto.

Return thereof.

425. After the commission has been duly executed, it shall be returned, together with the evidence taken under it, to the court out of which it issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order; and the commission and the return thereto, and the evidence taken under it, shall (subject to the provisions of the next following section) be recorded in the action.

426. Evidence taken under a commission shall not be read as evidence in the action without the consent of the party against whom the same is offered, unless—

Evidence taken under commission when admissible.

(a) the person who gave the evidence is beyond the jurisdiction of the court, or dead, or unable from sickness or infirmity to attend to be personally examined ; or is a person whom the court, in accordance with the customs and manners of the country, sees reason to exempt from personal appearance in court ; or

(b) the court in its discretion, for good cause to be assigned by it, dispenses with the proof of any of the circumstances mentioned in the last preceding section and authorizes the evidence of any person being read as evidence in the action, notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

Foreign courts to which provisions apply. [§56, Law 20 of 1977.]

427. The provisions hereinbefore contained as to the execution and return of commissions shall apply to commissions issued by the courts of any foreign country recognized by the Government of Sri Lanka.

(2) The report of the commissioner or commissioners in each case within (B) and (C), and the evidence taken by a commissioner (but not the evidence without the report) shall be evidence in the action; but the court, or, with the permission of the court, any of the parties to the action, may examine the commissioner personally in open court touching any of the matters referred to him, or mentioned in his report, or as to the manner in which he has made the investigation or conducted his proceedings.

Commissioner may be examined personally.

B.—COMMISSIONS FOR LOCAL INVESTIGATIONS

Commission to make local investigation.

428. In any action or proceeding in which the court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market value of any property, or the amount of any mesne profits or damages or annual net profits, and the same cannot be conveniently conducted by the Judge in person, the court may issue a commission to such person as it thinks fit, directing him to make such investigation and to report to the court.

433. Before issuing any commission under this Chapter the court may order such sum (if any) as it thinks reasonable for the expenses of the commission, to be paid into court by the party at whose instance or for whose benefit the commission is issued.

Court may order payment into court of expenses.

Return thereof.

429. The commissioner, after such local inspection as he deems necessary, and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing, subscribed with his name, to the court.

434. Any commissioner appointed under this Chapter shall have authority to administer an oath or affirmation, and may, unless otherwise directed by the order of appointment—

Powers of commissioners.

C.—COMMISSIONS TO EXAMINE ACCOUNTS

Commission to examine accounts.

430. In any action in which an examination or adjustment of accounts is necessary, the court may issue a commission to such person as it thinks fit, directing him to make such examination.

(a) examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the commissioner thinks proper to call upon to give evidence in the matter referred to him:

Court to furnish instructions.

431. The court shall furnish the commissioner with such part of the proceedings of the action and such detailed instructions as appear necessary, and the instructions shall distinctly specify whether the commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his examination.

(b) call for and examine documents and other things relevant to the subject of inquiry;

(c) at any reasonable time enter upon or into any land or building mentioned in the order.

GENERAL PROVISIONS

Evidence taken on commission shall be filed and recorded in the action.

432. (1) The commission in every case within this Chapter shall be entitled as in the action, whether of regular or summary procedure, in which it issued, and on its return shall, with all the proceedings, evidence, and documents, if any, taken therein, be filed and recorded as of that action.

435. The provisions of this Ordinance relating to the summoning, attendance, and examination of witnesses, and to the remuneration of, and penalties to be imposed upon, witnesses, shall apply to persons required to give evidence or to produce documents under this Chapter, whether the commission in execution of which they are so required has been issued by a court situate within, or by a court situate beyond, the limits of Sri Lanka.

Provisions of this Ordinance as to witnesses to apply.

Parties should appear before commissioner.

436. Whenever a commission is issued under this Chapter the court shall direct that the parties to the action shall appear before the commissioner in person or by their recognized agents or registered attorneys.

If the parties do not so appear, the commissioner may proceed *ex parte*.

AFFIDAVITS

Evidence on affidavit.

437. Whenever any order has been made by any court for the taking of evidence on affidavit, or whenever evidence on affidavit is required for production in any application or action of summary procedure, whether already instituted or about to be instituted, an affidavit or written statement of facts conforming to the provisions of section 181 may be sworn or affirmed to by the person professing to make the statement embodied in the affidavit before any court or Justice of the Peace or Commissioner for Oaths within the local limits of whose jurisdiction he is at the time residing, and the fact that the affidavit appears to be entitled in an action in a competent court shall be sufficient authority to such court or Justice of the Peace or Commissioner to administer the oath or affirmation.

Affidavit to be duly entitled and to be signed by the declarant.

438. Every affidavit shall be entitled as in the court and action in which it is to be used, and shall be signed by the declarant in the presence of the court, Justice of the Peace, or Commissioner before whom it is sworn or affirmed.

Case of illiterate person.

439. In the event of the declarant being a blind or illiterate person, or not able to understand writing in the language of the court, the affidavit shall at the same time be read over or interpreted to him in his own language, and the jurat shall express that it was read over or interpreted to him in the presence of the court. Justice of the Peace, or Commissioner, and that he appeared to understand the contents; and also that he made his mark or wrote his signature in the presence of the court, Justice of the Peace, or Commissioner. And when a mark is made instead of a signature, the person who writes the marksman's name against the mark shall also sign his name and address in the presence of the court. Justice of the Peace, or Commissioner.

440. Every affidavit must be fairly written, and must exhibit no erasures or blotting or blanks; if any alteration is needed to be made in the original writing before it is sworn or affirmed to, every excision of a word, or letter, or figure shall be made by so drawing a line through it as to leave the word, letter, or figure still legible; and every added word, letter, or figure shall be added by interlineation, not by superposition or alteration; and every excision and interlineation shall be initialled by the Judge, Justice of the Peace, or Commissioner before whom the affidavit is affirmed or sworn.

Alteration of affidavit.

CERTIFIED COPIES

[§57, Law 20 of 1977.]

440A. (1) Where a party to any proceedings in a civil court requires for the purpose of such proceedings a certified copy of any complaint or statement made to a police officer, or an inquirer, whether in the course of any investigation or otherwise, or of any plan, or sketch prepared by a police officer, or an inquirer, on information furnished by any person or persons, such party shall, upon the payment by such party to the appropriate authority of the usual charges, be entitled to obtain a certified copy of such complaint, statement, plan or sketch, as the case may be; and the court, upon application made in that behalf, may direct the appropriate authority to issue such certified copy.

Issue of certified copies of statements or complaints made to, or of plans or sketches prepared by, police officers or inquirers and the production of such certified copies. [§58, Law 20 of 1977.]

(2) Notwithstanding anything to the contrary in any other law, a certified copy of any complaint, statement, plan or sketch obtained under the preceding subsection by a party to any proceedings in a civil court, may, without the police officer or inquirer to whom the complaint or statement was made, or by whom the plan or sketch was prepared being called as a witness, be produced in such proceedings by such party in proof of the fact that the complaint or statement was made, or that the information on which the plan or sketch was prepared was furnished to such police officer or inquirer by any person or persons, if the person by whom the complaint or statement was made or every person who furnished the information on which the plan or sketch was prepared has deposed to the fact of

having made such complaint or statement or of having furnished such information, as the case may be:

Provided however, that the court may of its own motion, or upon application made by any party to such proceedings, require the production of the book in which such complaint or statement was first recorded or the original of such plan or sketch, as the case may be, or require that the person to whom such complaint or statement was made, or by whom such plan or sketch was prepared, be summoned as a witness.

(3) In the preceding subsections—

" appropriate authority "—

(a) in relation to any information or statement recorded in an information book, kept by an officer in charge of a police station, means such officer;

(b) in relation to any plan or sketch prepared by a police officer attached to a police station, means the officer in charge of that police station; and

(c) in relation to any information or statement recorded in an information book kept by an inquirer for any area or any plan or sketch prepared by an inquirer for any area means the inquirer for such area;

" inquirer " and " police officer " shall have the same meaning as in the Code of Criminal Procedure Act.

PART IV

ACTIONS IN PARTICULAR CASES

CHAPTER XXXI*

ACTIONS BY OR AGAINST THE STATE, OR MINISTERS, DEPUTY MINISTERS, OR PUBLIC OFFICERS

Actions by or against the State. [§60, Law 20 of 1977.]

456. (1) All actions by or against the State shall be instituted by or against (as the case may be) the Attorney-General.

(2) In actions by the State instituted by the Attorney-General, instead of inserting in

the plaint the name and description and place of abode of the plaintiff, it shall be sufficient to insert the words "the Attorney-General".

(3) Attorney-General does not in this section include the Solicitor-General, the Additional Solicitor-General, a Deputy Solicitor-General, or any State Counsel.

457. In any action to which the State is a party, all processes of court issuing against the State shall be served upon the Attorney-General.

Service of process.

459. The court, in fixing the day for the Attorney-General to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and may extend the time at its discretion.

Attorney-General to have reasonable time to appear.

459. Where the defendant is a public officer, the court may send a copy of the summons to the head of the office in which the defendant is employed, for the purpose of being served on him, if it appear to the court that the summons may be most conveniently so served.

Service on public officer.

460. If the public officer on receiving the summons considers it proper to make a reference to the Government before answering to the plaint, he may apply to the court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channel; and the court upon such application may extend the time for so long as appears to be requisite.

Public officer may apply for time to answer.

461. No action shall be instituted against the Attorney-General as representing the State or against a Minister, Deputy Minister, or public officer in respect of an act purporting to be done by him in his official capacity, until the expiration of one month next after notice in writing has been delivered to such Attorney-General, Minister, Deputy Minister, or officer (as the case may be), or left at his office, stating the cause of action and the name and place of abode of the person intending to institute the action and the relief which he claims; and the plaint in such action must contain a statement that such notice has been delivered or left.

Attorney-General, Minister, Deputy Minister, and public officer entitled to notice.

* Chapter XXX—Sections 441 to 455 (both inclusive)—is repealed by Law No. 20 of 1977.

Procedure where no notice has been given under section 461. [§61, Law 20 of 1977.]

461A. (1) Where no notice as required by section 461 has been given prior to the institution of the action, and objection is taken prior to or in the answer that no such notice has been given, the court shall stay further proceedings of the action for a period of one month and may order the plaintiff to pay the defendant such costs as it thinks fit. Where proceedings are stayed under this subsection, the date immediately following the period of one month after the date of the institution of such action shall be deemed to be the date of institution of the action where such date is material for the purpose of determining whether the action is prescribed or not, and such action shall thereafter be proceeded with after such notice has been duly given.

(2) Where after the giving of such notice as required by section 461, the plaintiff fails to aver the fact of such notice having been given, the court shall permit an amendment of the plaintiff averring the giving of such notice and if a postponement or adjournment is occasioned in consequence thereof, the court may award such costs as it thinks fit.

(3) No such action as is referred to in section 461 shall be dismissed only for the reason that no notice prior to the institution of action had been given as required by the said section or that a statement that such notice of action has been duly delivered or left has not been averred in the plaintiff.

Writ against person or property in such action.

462. No writ against person or property shall be issued against the Attorney-General in any action brought against the State or in any action in which the Attorney-General is substituted as a party defendant under section 463.

When Attorney-General may intervene.

463. If the Attorney-General undertakes the defence of an action against a Minister, Deputy Minister, or public officer, the Attorney-General shall apply to the court, and upon such application the court shall substitute the name of the Attorney-General as a party defendant in the action.

464. If such application is not made by the Attorney-General on or before the day fixed in the notice for the defendant to appear and answer to the plaintiff, the case shall proceed as in an action between private parties, except that the defendant shall not be liable to arrest, nor his property to attachment, otherwise than in execution of a decree.

Where Attorney-General does not intervene action to proceed as against private party.

465. In an action against a Minister, Deputy Minister, or public officer in respect of such act as aforesaid, the court shall exempt the defendant from appearing in person when he satisfies the court that he cannot absent himself from his duty without detriment to the transaction of any business of Parliament, or Cabinet of Ministers, or to the public service.

Minister, Deputy Minister, or public officer need not appear in person.

CHAPTER XXXIII*

ACTIONS BY AND AGAINST CORPORATIONS AND COMPANIES

470. In actions by or against any corporation, or by or against a board or other public body, or any company authorized to sue or be sued, the name and the style of the corporation, board, public body, or company, or of the officer (if any) in whose name any such corporation, board, public body, or company is authorized to sue and be sued, as the case may be, may be inserted as the name of the plaintiff or defendant; and the plaintiff or answer may be subscribed on behalf of the corporation, board, public body, or company by any member, director, secretary, manager, or other principal officer thereof who is able to depose to the facts of the case; and in any case in which such corporation, board, public body, or company is represented by a registered attorney, shall be subscribed by such registered attorney.

Action by or against a corporation or company.

471. When the action is against a corporation, or against a board or other public body, or a company authorized to sue and be sued in the name of an officer or of a trustee, except in cases where a particular mode of service is directed by law, the summons may be served—

Service on corporation or company.

- (a) by leaving it at the registered office (if any) of the corporation, board, public body, or company; or

*Chapter XXXII—Sections 466 to 469 (both inclusive)—is repealed by Law No. 20 of 1977.

(b) by giving it to the secretary or other principal officer of the corporation, board, public body or company;

and the court may in such summons or by special order require the personal appearance of such secretary or other principal officer of the corporation, board, public body, or company who may be able to answer material questions relating to the action.

CHAPTER XXXIV

ACTIONS BY AND AGAINST TRUSTEES, EXECUTORS, AND ADMINISTRATORS

Actions against trustees, executors, and administrators.

472. In all actions concerning property vested in a trustee, executor, or administrator, when the contention is between the persons beneficially interested in such property and a third person, the trustee, executor, or administrator shall represent persons so interested ; and it shall not ordinarily be necessary to make them parties to the action. But the court may, if it thinks fit, order them, or any of them, to be made such parties.

All executors, &c., should be made parties.

473. When there are several trustees, executors, or administrators, they shall all be made parties to an action by or against one or more of them;

Provided that executors who have not proved their testator's will, and trustees, executors, and administrators beyond the local limits of the Jurisdiction of the court, need not be made parties.

Executors and administrators liable in costs.

474. In every action brought by an executor or administrator in right of his testator or intestate, such executor or administrator shall, unless the court shall otherwise order, be liable to pay costs to the defendant in case of judgment being entered for the defendant, and in all other cases, in which he would be liable if such plaintiff were suing in his own right upon a cause of action accruing to himself; and the defendant shall have judgment for such costs, and they shall be recovered accordingly.

Husband of executrix not to be made party.

475. Unless the court directs otherwise, the husband of a married executrix or administratrix shall not be a party to an action by or against her in her representative capacity.

CHAPTER XXXV

ACTIONS BY AND AGAINST MINORS AND PERSONS UNDER OTHER DISQUALIFICATION

476. Every action by a minor shall be instituted in his name by an adult person who in such action shall be designated in the complaint the next friend of the minor, and may be ordered personally to pay any costs in the action as if he were the plaintiff. Action by minor.

477. Every application to the court on behalf of a minor (other than an application under section 487) shall be made in his name by his next friend or his guardian for the action, and shall be so expressed to be made on the face of the application. Next friend and guardian ad litem.

478. (1) If a plaint be filed by or on behalf of a minor without a next friend, the defendant may apply to have the plaint taken off the file, with costs to be paid by the registered attorney or other person by whom it was presented. Procedure where no next friend.

(2) Such application shall be made on summary procedure by the defendant; and the court after hearing the objections, if any, of the person against whom it is made, may make such order in the matter as it thinks fit.

479. Where the defendant to an action is a minor, the court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the action for such minor, and generally to act on his behalf in the conduct of the case. Court may appoint guardian ad litem.

480. Every order made in an action or on any application before the court in or by which a minor is in any way concerned or affected without such minor being represented by a next friend or guardian for the action, as the case may be, may be discharged on application made on summary procedure for the purpose ; and, if the registered attorney of the party at whose instance such order was obtained knew, or might reasonably have known, the fact of such minority, it may on such application be discharged with costs to be paid by such registered attorney, provided he was duly made a respondent to the application. No order to affect minor not represented.

Who may act as next friend.

481. (1) Any person being of sound mind and full age may be appointed next friend of a minor, provided his interest is not adverse to that of such minor and he is not a defendant in the action.

apply to the court for the appointment of one, making the defendant a respondent to the application; and the court may thereupon appoint such person as it thinks fit.

(2) Such appointment shall be made after application by way of summary procedure supported by affidavit showing the fitness of the person proposed, and also that he has no interest adverse to the minor, and to such application the defendant shall be made respondent. And on the occasion of any such application being made the minor should appear personally in court unless prevented by good cause, such as extreme youth or illness.

486. A minor plaintiff, or a minor not a party to an action on whose behalf an application is pending, on coming of age, must elect whether he will proceed with the action or application.

Minor's right of election on coming of age.

487. (1) If he elects to proceed with it, he shall apply for an order discharging the next friend, and for leave to proceed in his own name.

Discharge of next friend on minor's election to proceed with action.

On cause shown court may remove next friend.

482. If the interest of the next friend of a minor is adverse to that of such minor, or if he is so connected with a defendant whose interest is adverse to that of the minor as to make it unlikely that the minor's interest will be properly protected by him or if he does not do his duty, or, pending the action, ceases to reside within Sri Lanka, or for any other sufficient cause, application may be made on summary procedure on behalf of the minor or by a defendant for his removal; and the court (if satisfied of the sufficiency of the cause assigned) may order the next friend to be removed accordingly.

(2) The title of the action or application shall, upon such order being made, be altered so as to read thenceforth thus: "A. B; late a minor, by C. D., his next friend, but now of full age".

488. If he elects to abandon the action or application he shall, if a sole plaintiff or sole applicant, apply for an order to dismiss the action or application, on repayment of the costs incurred by the defendant, or respondent, or which may have been paid by his next friend.

Procedure on election of sole plaintiff to abandon on payment of costs.

Retirement of next friend.

483. (1) Unless otherwise ordered by the court, a next friend shall not retire at his own request without first procuring a fit person to be put in his place, and giving security for the costs already incurred.

489. Any application under section 487 or section 488 may be made *ex parte*: and the affidavit of facts upon which it is based must satisfy the court that the late minor has attained his full age.

Application to be *ex parte*.

(2) The application for the appointment of a new next friend shall be on summary procedure supported by affidavit, showing the fitness of the person proposed, and also that he has no interest adverse to the minor, and to such application the defendant shall be made respondent.

490. (1) A minor co-plaintiff on coming of age, and desiring to repudiate the action, must apply to have his name struck out as co-plaintiff; and the court, if it finds that he is not a necessary party, shall dismiss him from the action on such terms as to costs or otherwise as it thinks fit.

Procedure on election of a co-plaintiff to repudiate.

Death or removal of next friend.

484. On the death or removal of the next friend of a minor further proceedings shall be stayed until the appointment of a next friend in his place.

(2) The next friend as well as the defendant, shall be served with the petition of application as respondent, and it must be proved by affidavit that the late minor has attained his full age; the costs of all parties of such application and of all or any proceedings theretofore had in the action shall be paid by such persons as the court directs.

Appointment of new next friend.

485. If the registered attorney of such minor omits, within reasonable time, to take steps to get a new next friend appointed, any person interested in the minor or the matter at issue may, on summary procedure,

If the late minor be a necessary party to the action, the court may direct him to be made a defendant.

that of the minor, but neither a plaintiff nor a married woman can be so appointed.

Procedure when ex-minor applies to have action dismissed as unreasonable or improper.

491. (1) If any minor on attaining majority can prove to the satisfaction of the court that an action instituted in his name by a next friend was unreasonable or improper, he may, if a sole plaintiff, apply by way of summary procedure to have the action dismissed.

496. If the guardian for the action of a minor defendant does not do his duty, or if other sufficient ground be made to appear, the court may remove him and may order him to pay such costs as may have been occasioned to any party by his breach of duty.

Court may remove guardian *ad litem*.

(2) Notice of the application shall be served on all the parties concerned, including the next friend, and the court, upon being satisfied of such unreasonableness or impropriety, may grant the application, and order the next friend to pay the costs of all parties in respect of the application and of anything done in the action.

497. If the guardian for the action dies pending such action, or is removed by the court, the court shall appoint a new guardian in his place.

Death of guardian.

Minor may in person sue for wages.

492. Nothing in the foregoing sections shall affect the right of any minor to prosecute any proceedings in a Primary Court for any money which may be due to him for wages or piecework, or for work as a servant, artificer, or labourer, in the same manner as if he were of full age.

498. When the enforcement of a decree or order is applied for against the heir or representative, being a minor, of a deceased party, a guardian for the action of such minor shall be appointed by the court, on an application of summary procedure duly made for this purpose, and the decree-holder shall then serve on such guardian notice of such application.

Procedure for execution of decree against minor heir.

Application for appointment of guardian *ad litem*.

493. (1) An order for the appointment of a guardian for the action may be obtained upon application on summary procedure in the name and on behalf of the minor or by the plaintiff. Such application must be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in question in the action adverse to that of the minor, and that he is a fit person to be so appointed.

499. No sum of money or other thing shall be received or taken by a next friend or guardian for the action on behalf of a minor at any time before decree or order, unless he has first obtained the leave of the court, and given security to its satisfaction that such money or other thing shall be duly accounted for to, and held for the benefit of, such minor.

When court may allow next friend funds for suit.

(2) On the occasion of such an application being made, the minor ought to appear personally in court unless prevented by good cause, such as extreme youth or illness, from doing so.

500. (1) No next friend or guardian for the action shall, without the leave of the court, enter into any agreement or compromise on behalf of a minor with reference to the action in which he acts as next friend or guardian.

Next friend may not compound action without leave of court.

When officer of court may be appointed.

494. When there is no other person fit and willing to act as guardian for the action, the court may appoint any of its officers to be such guardian, provided that he has no interest adverse to that of the minor.

(2) Any such agreement or compromise entered into without the leave of the court shall be voidable against all parties other than the minor.

Co-defendant maybe appointed.

495. A co-defendant of sound mind and of full age may be appointed guardian for the action, if he has no interest adverse to

501. (1) The provisions contained in this Chapter shall, *mutatis mutandis*, apply in the case of persons of unsound mind and mentally deficient persons, adjudged to be so under the provisions of this Ordinance or under any law for the time being in force.

This Chapter to apply to persons of unsound mind and mentally deficient persons. [§ 13. 53 of 1980.]

(2) For the purposes of this section, "persons of unsound mind and mentally deficient persons", mean persons who have been so adjudged under the provisions of this Ordinance or under any law for the time being in force, or where there has been no such adjudication, persons of whom the court is satisfied, after inquiry, to be of unsound mind or mentally deficient and incapable of managing their own affairs.

Explanation.—In this Chapter the expression "commanding officer" means the officer in actual command for the time being of any ship, regiment, corps, detachment, or naval, military, or air depot to which the party belongs.

Majority, what is.

502. For the purposes of this Chapter, a minor shall be deemed to have attained majority or full age on his attaining the age of twenty-one years, or on marriage, or on obtaining letters of *venia aetatis*.

504. Any person authorized by such party to prosecute or defend an action in his stead may prosecute or defend it in person in the same manner as such party could do if present; or he may appoint an attorney-at-law to prosecute or defend the action on behalf of such party.

Agent may sue or defend in person.

CHAPTER XXXVI

ACTIONS BY AND AGAINST PERSONS IN THE NAVAL, MILITARY, OR AIR SERVICE

Actions by or against persons in the naval, military, or air force.

503. (1) When any officer in the naval, military, or air service or any sailor, soldier, or airman actually serving the Government in the capacity of a member of a naval, military, or air force is a party to an action, and cannot obtain leave of absence for the purpose of prosecuting or defending the action in person, he may authorize any person to sue or defend in his stead.

505. Processes served upon any person authorized by any party under section 503, or upon any attorney-at-law appointed as aforesaid by such person to act for or on behalf of such party, shall be as effectual as if they had been served on the party in person or on his registered attorney; and no process in the action shall be served upon such party personally without express order of court.

Service of process in such cases.

506. (1) When any naval, military, or air officer or any sailor, soldier, or airman is a defendant, a copy of the summons shall be sent by the Fiscal to his commanding officer for the purpose of being served on him.

Copy of summons may be sent to commanding officer for service.

Authority to agent.

(2) The authority shall be in writing, and shall be signed by the party in the presence of—

(2) The officer to whom such copy is sent shall cause it to be served on the person to whom it is addressed, if practicable, and shall return it to the Fiscal with the written acknowledgment of such person endorsed thereon.

(a) his commanding officer, or of the next subordinate officer if the party be himself the commanding officer; or

(3) If from any cause the copy cannot be so served, it shall be returned to the Fiscal by whom it was sent, with information of the cause which has prevented the service.

(b) where the party is serving in naval, military, or air force staff employment, the head or other superior officer of the office in which he is employed. Such commanding or other officer shall countersign the authority, which shall be filed in court.

507. (1) If, in the execution of a decree, a warrant of arrest or other process is to be executed within the limits of a cantonment, garrison, or naval, military, or air station, the officer charged with the execution of such warrant or other process shall deliver the same to the commanding officer.

Warrant of arrest may likewise be delivered for execution.

(3) When so filed, the counter-signature shall be sufficient proof that the authority was duly executed, and that the party by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the action in person.

(2) The commanding officer shall, if the person named therein is by law liable to arrest, back the warrant or other process with his signature, and shall in the case of a

warrant of arrest cause such person, if within the limits of his command, to be arrested and delivered to the officer so charged.

CHAPTER XXXVII

ACTIONS OF ACCOUNT

Actions of account.

508. When the claim which is made in the plaint, or is set up in the answer, is such that the action cannot be disposed of, or a complete and final decree made in the matter thereof between the parties without the taking of accounts, or the making inquiry into facts, or the demarcation of land, or the realization of assets, as the case may be, it shall be competent to the court to adjudicate piecemeal upon the matters in issue, and in such adjudications to make interlocutory decrees or orders of a final character between the parties at hearings had by successive adjournments; and, in particular, to take any accounts, and to make an inquiry into facts separately from the remaining matter of the action on a day to be appointed for the purpose, and to issue the necessary directions or commissions for the demarcation of land or realization of assets, and to adjourn the hearing from time to time for further orders or directions, or for final determination, to such dates as may be necessary or convenient to enable the accounts to be taken, the inquiries made, and the demarcation of land or realization of assets, as the case may be, to be effected, in the interval.

Interlocutory order for taking accounts,&c.

509. In any such case the order of adjournment for the purpose of the accounts being taken, inquiries made, or commissions or directions issued, must adjudicate (either by consent or upon admissions of the parties, or upon other sufficient evidence) upon so much of the rights of, or of the fiduciary relations between, the parties, which are at issue in the action, as may suffice to give rise to the liability of the respective parties affected by the order to account, or may serve to render the inquiries, directions, or commissions thereby directed proper and necessary.

Form and scope of order.

510. Every order directing an account to be taken, or giving leave to a party to falsify or to surcharge an account, shall appoint a

day for the filing of the account or of the document of falsification or surcharge, and also a subsequent time for the opposing party to file objections thereto, and again a later time for the hearing and determination of the issues between the parties arising out of the objections, and for the finding on the footing of such determination of the state of the account directed to be taken.

511. The account directed to be taken, before it is filed, must be verified on oath or affirmation by the accounting party. Objections to the account may be filed by any party concerned in the right taking of the accounts and may be directed as well to adding new entries or enhancing existing entries on the debit side of the accounting party, as to falsifying the account given by him in any particular. And the trial of the issues arising out of the objections to the account shall conform, as nearly as may be, in regard to the order and method of proceeding and the taking of evidence, to the rules hereinbefore laid down for the trial of a regular action.

The taking of the accounts.

512. The day for filing the account directed to be taken, and the times for filing the objections thereto, and for the hearing and determination of the issues arising thereout, shall respectively be fixed with a due regard to the circumstances of the matter and the situation of the parties therein, so that reasonable opportunity may be afforded to the accounting party to make out his account, to the opposing party to examine the same and to satisfy himself in respect to its correctness, and to all parties to prepare for trial.

Reasonable care to be taken in appointing the days for the purpose.

513. In the event of the accounting party not duly filing his account, and not satisfying the court that there is just cause for his default, the court shall proceed with the hearing of the matter of the account and adjudicate upon the same on the day appointed therefor by finding the actual state of the account directed to be taken upon such materials as may be furnished by the opposing party:

Procedure where accounting party makes default.

Provided, nevertheless, that any reasonable extension of time which may be bona fide required by any party, either for filing accounts or objections thereto, or for

preparing for trial, may be granted by the court on such terms as it may think proper, if such extension of time be applied for at the earliest possible moment, upon materials showing good and sufficient ground, and upon notice to the other parties concerned.

What provisions apply when an order is made in an action for an inquiry,

514. When an order is made in an action for an inquiry into facts, the foregoing rules shall, *mutatis mutandis*, apply to the making of the order, the filing of the state of facts and of the objections thereto, or counterstate of facts, and to the trial of the issues arising thereout respectively, so nearly as reasonably may be.

Adjournment of the hearing until after the accounts &c shall have been taken,

515. When the hearing of an action is adjourned for the intermediate taking of accounts, making of inquiries, or execution of commissions, or of other directory orders, the interval of adjournment shall be adjusted with immediate reference to the proceedings prescribed by the foregoing rules for such interlocutory matter, so as to allow of its being conveniently completed before the resumption of the hearing so adjourned. And the order for adjournment shall include or comprehend the orders and directions requisite under these rules for the taking of the accounts or executing the other matters for which the adjournment is made:

Provided, nevertheless, that any reasonable extension of the time of adjournment which may seem to the court necessary, or which may be bona fide required by any party, in consequence of extension of time being granted for, or of delay in, or prolongation of, the proceedings of the interlocutory matters, or upon other good and sufficient ground shown by proper evidence, may be ordered by the court either on the day to which the hearing is adjourned, or upon any other day, provided reasonable notice of the application to the court for the extension of the time of adjournment be afforded to all parties.

CHAPTER XXXVIII

TESTAMENTARY ACTIONS

Deposit of the will of deceased, [§64, Law 20 of 1977.]

516. (1) When any person shall die leaving a will in Sri Lanka, the person in whose keeping or custody it shall have been

deposited, or who shall find such will after the testator's death, shall produce the same to the District Court of the district in which such depository or finder resides, or to the District Court of the district in which the testator shall have died, as soon as reasonably may be after the testator's death. And he shall also make oath or affirmation, or produce an affidavit (form No. 81, First Schedule) verifying the time and place of death, and stating (if such is the fact) that the testator has left property within the jurisdiction of that or any other, and in that event what, court, and the nature and value of such property; or, if such is the fact, that such testator has left no property in Sri Lanka.

The will so produced shall be numbered and initialled by the Probate Officer and deposited and kept in the record room of the District Court.

(2) In this section, "Probate Officer" means the Registrar of the District Court and includes any other officer generally or specially authorized by the court to exercise powers and perform the duties of a Probate Officer in testamentary proceedings.

517. Any person liable to produce any will to any court under the provisions of the last preceding section, who shall wilfully omit to produce such will, or to furnish the information thereby required, shall be guilty of an offence, and liable to a fine not exceeding one thousand rupees.

Penalty on neglect.

518. (1) When any person shall die leaving a will under or by virtue of which any property in Sri Lanka is in any way affected, any person appointed executor therein may apply to the District Court of the district within which he resides, or within which the testator resided at the time of his death, or within which any land belonging to the testator's estate is situate, to have the will proved and to have probate thereof issued to him; also any person interested, either by virtue of the will or otherwise, in having the property of the testator administered, may apply to such court to have the will proved and to obtain grant to himself of administration of the estate with copy of the will annexed.

Who may apply for probate or administration. [§65, Law 20 of 1977.]

(2) If any person who would be entitled to administration is absent from Sri Lanka, a grant of letters of administration with or without the will annexed, as the case may require, may be made to the duly constituted attorney of such person.

Probate or administration compulsory where value of estate is or over twenty thousand rupees. [§2,24 of 1969.3

519. (1) Upon any such application being made, and, in every case in which the estate of the testator amounts to or exceeds in value twenty thousand rupees, whether any such application shall have been made or not, it shall be obligatory on the court to, and the court shall, issue probate of the will to the executor or executors named therein; or if there is no executor resident in Sri Lanka competent and willing to act, the court shall issue letters of administration with or without the will annexed, as the case may require, to some person who by the provisions of the last preceding section is competent to apply for the same, or to some other person who, in the opinion of the court, by reason of consanguinity, amount of interest, the safety of the estate, and probability that it will be properly administered, is a proper person to be appointed administrator; and in every such case letters of administration may be limited or not in manner hereinafter provided, as the court thinks fit.

(2) The grant of such letters shall be subject to the rules and regulations hereinafter provided with regard to such grants in other cases; and in the judgment by which such grant is made the court shall adjudicate upon the facts which constitute the grounds of the appointment.

[§66, Law 20 of 1977.]

(3) For the purpose of this Chapter " estate " shall mean the gross value of the estate of the deceased.

When Public Trustee may be appointed. [§67, Law 20 of 1977.]

520. Where there is no person fit and proper in the opinion of the court to be appointed administrator in manner in the last preceding section provided, or no such person is willing to be so appointed, and not in any other case, the court shall appoint the Public Trustee such administrator.

Requirements when Public Trustee applies for letters of administration. [§68, Law 20 of 1977.]

520A. (1) Whenever the Public Trustee applies for letters of administration, it shall be sufficient if the petition presented for the grant of such letters states—

(a) the time and place of the death of the deceased to the best of the knowledge and belief of the petitioner;

(b) the names and addresses of the surviving next of kin of the deceased, if known;

(c) the full and true particulars of the property left by the deceased as far as he has been able to ascertain the same;

(d) particulars of the liabilities of the estate, if known.

(2) The Public Trustee shall not be required to file accounts of the property of the deceased unless the court otherwise directs.

521. In every case in which it is found necessary, whether by reason of such executor as aforesaid not applying for probate, or by reason of there being no executor resident in Sri Lanka competent and willing to act, or by reason of no person who is competent under section 518 to apply for letters of administration so applying, that any such person as is in section 519 mentioned, should be appointed administrator, the court shall take from such person security for the due administration of the estate in manner in section 538 mentioned, and it shall not in any case be competent for the court to dispense with such security under the provisions of section 541.

Security. [§69, Law 20 of 1977.]

522. Whenever the Public Trustee has obtained probate in respect of a will or grant of letters of administration in respect of the estate of a deceased person, he shall as far as practicable, comply with the provisions of this Chapter relating to the administration of estates:

Duties of public Trustee relating to the administration of estates. [§70, Law 20 of 1977.]

Provided that the Public Trustee shall not be required—

(a) to take any oath as executor or administrator;

(b) to furnish any bond or security, but shall be subject to the same liability and dues as if he had given such bond or security;

- (c) to make payment or secure the payment of assessed estate duty prior to his undertaking the administration of the estate, but shall eventually make such payment as required by the Estate Duty Ordinance or the Estate Duty Act, as the case may be;
- (f) to affix stamps on any document at or about the time of the making of such document; but shall eventually make such payment as required by the Stamp Ordinance;
- (c) unless the court otherwise directs, to tender final accounts.

identified by affidavit, with the will as an exhibit thereto, or by parol testimony at the time the application is made.

(3) Every person making or intending to make, an application to a District Court under this section to have the will of a deceased person proved, which will is deposited in another District Court, is entitled to procure the latter court to transmit the said will to the court to which application is to be made, for the purpose of such application. Also the application must be supported by sufficient evidence either in the shape of affidavits of facts, with the will as an exhibit thereto, or of oral testimony, proving that the will was duly executed according to law, and establishing the character of the petitioner according to his claim.

Application to be made on affidavits.

To whom grant in either case should be made.

523. In the case of a conflict of claims to have the will proved and probate or grant of administration issued, the claim of an executor or his attorney shall be preferred to that of all others, and the claim of a creditor shall be postponed to the claim of a residuary legatee or devisee under the will. And in the like case of a conflict of claims for grant of administration where there is intestacy, the claim of the widow or widower shall be preferred to all others, and the claim of an heir to that of a creditor:

(4) The petitioner shall tender with the petition— [§72, Law 20 of 1977.]

[§71, Law 20 of 1977.]

Provided, however, that the court may for good cause supersede the claim of the widow or widower.

- (a) the declaration of property referred to in section 30 of the Estate Duty Ordinance or in section 24 of the Estate Duty Act, as the case may be, in triplicate with a certified copy of the will for transmission by court to the Commissioner-General of Inland Revenue;
- (b) draft order nisi;
- (c) the requisite stamps for the order *nisi* and service thereof;
- (d) draft notice of order *nisi* in the form No. 84A in the First Schedule ;
- (e) proof of payment of the estimated charges to cover the cost of advertising the notice of order *nisi* in a local newspaper as hereinafter provided; and
- (f) the consent in writing of such respondents as consent to his application.

Mode of application and proof in case of a will.

524. (1) Every application to the District Court to have the will of a deceased person proved shall be made on petition by way of summary procedure, which petition shall set out in numbered paragraphs the relevant facts of the making of the will, the death of the testator, the heirs of the deceased to the best of the petitioner's knowledge, the details and situation of the deceased's property, and the grounds upon which the petitioner is entitled to have the will proved ; the petition shall also show whether the petitioner claims as creditor, executor, administrator, residuary legatee, legatee, heir, devisee, or in any and what other character.

525. (1) If the petitioner has no reason to suppose that his application will be opposed by any person, he may file with his petition an affidavit to that effect, and may omit to name any person in his petition as respondent. Affidavit of no opposition.

(2) If the will is not already deposited in the District Court in which the application is made, it must either be appended to the petition, or must be brought into court and

[§73, Law 20 of 1977.] (2) The petitioner shall tender with the petition—

- (a) the declaration of property referred to in section 30 of the Estate Duty Ordinance or in section 24 of the Estate Duty Act, as the case may be, in triplicate with a certified copy of the will for transmission by court to the Commissioner-General of Inland Revenue;
- (b) draft order absolute;
- (c) the requisite stamps for such order absolute;
- (d) draft notice of order absolute in the form No. 84B in the First Schedule ; and
- (e) proof of payment of the estimated charges to cover the cost of advertising the notice of order absolute in a local newspaper as hereinafter provided.

Court if satisfied with proof, to make order nisi declaring will proved.

526. Upon the application being made, if the court is of opinion that the evidence adduced is sufficient to afford prima facie proof of the due making of the will and of the character of the petitioner, it shall make an order *nisi* declaring the will to be proved, which order shall be served upon the respondent, if any, and upon such other person as the court shall think fit to direct, and shall come on for final hearing and disposal on a day to be named therein.

Order nisi to direct probate.

527. If the applicant claims as the executor or one of the executors of the will, and asks that probate may be issued to him, the order *nisi* shall declare that he is executor, and shall direct the issue of probate to him accordingly.

Grant of administration with copy of will annexed.

528. If the applicant claims in any other character than that of executor, and asks that the administration of the deceased's property be granted to him, then the order *nisi* shall include a grant to the applicant of a power to administer the deceased's property according to the will, with a copy of the will annexed.

529. (1) In the case of an application for probate if no respondent is named in the petition, the court may in its discretion make the order absolute in the first instance.

When court may make order absolute in the first instance.

(2) The notice of such order absolute shall be in the form No. 84B in the First Schedule and shall be advertised in the manner provided in section 532.

[§74, Law 20 of 1977.]

530. (1) When any person shall die without making a will or where the will cannot be found, every application for grant of administration of his property may be made to the District Court of the district within which the applicant resides, or within which the deceased resided at the time of his death or within which any land belonging to the deceased's estate is situate. Every such application shall be made on petition by way of summary procedure, which petition shall set out in the numbered paragraphs prescribed by section 524, the relevant facts of the absence of the will, the death of the deceased, and the heirs of the deceased to the best of the petitioner's knowledge; the petition shall also show the character in which the petitioner claims and the facts which justify his doing so. The application shall also be supported by sufficient evidence, to afford prima facie proof of the material allegations in the petition, and shall name the next of kin of the deceased as respondents.

Mode of application and proof for grant of administration in absence of a will. [§75, Law 20 of 1977.]

(2) (a) The petitioner shall tender with the petition—

- (i) the declaration of property referred to in section 30 of the Estate Duty Ordinance or in Section 24 of the Estate Duty Act, as the case may be, in triplicate for transmission by court to the Commissioner-General of Inland Revenue.
- (ii) draft order *nisi*;
- (iii) the requisite stamps for the order *nisi* and service thereof;
- (iv) draft notice of order *nisi* in the form No. 84A in the First Schedule, and

(a) proof of payment of the estimated charges to cover the cost of advertising the notice of order nisi in a local newspaper as hereinafter provided.

(b) The petitioner may also tender with the petition the consent in writing of such respondents as consent to his application.

Court declaring petitioner's order nisi for issue of grant.

531. Upon the application for grant of administration being made, if the court is of opinion that the material allegations of the petition are proved, it shall make an order nisi declaring the petitioner's status accordingly, and making the grant prayed for, which order shall be served upon the respondent and upon such other persons as the court shall think fit to direct, and shall come on for final hearing and disposal on a day to be named therein.

Court to forward declaration made by me petitioner to the Commissioner-General of Inland Revenue, [§76, Law 20 of

531A. (1) The court shall, upon receipt of the declaration referred to in section 30 of the estate Duty Ordinance, or in section 24 of the Estate Duty Act, as the case may be, forthwith forward to the Commissioner-General of Inland Revenue two copies of such declaration, and where the will has been filed, one copy of the will.

(2) The Assessor shall, within one year after the receipt by him of such particulars as may be necessary to assess the estate duty payable in respect of the estate of the deceased, determine the person or persons by whom the whole or part of such duty is payable and assess the estate duty payable in respect of the estate.

(3) On the payment of the estate duty assessed under the preceding subsection or on such security as the Commissioner-General of Inland Revenue may deem sufficient being furnished for the payment of such estate duty, such Commissioner-General shall issue a certificate to that effect.

(4) Whenever it appears to an Assessor that the amount which any person is liable to pay as estate duty has been assessed under subsection (2) at less than the appropriate amount, the Assessor may make an additional assessment of the amount which such person is in the opinion of the Assessor liable to pay ;

Provided that no such additional assessment shall be made after the expiry of two years from the date of grant of probate or letters of administration.

(5) Nothing in this section shall prevent the Assessor from acting under any such provisions of the Estate Duty Ordinance or of the Estate Duty Act, as the case may be, as are not inconsistent with the provisions of this section.

(6) In this section " Assessor " has the same meaning as in the Estate Duty Ordinance or in the Estate Duty Act, as the case may be.

531B. Notwithstanding the provisions of section 55 of the Estate Duty Ordinance, or of section 42 of the Estate Duty Act, as the case may be, the court may grant probate or letters of administration, as the case may be, upon production of a provisional certificate under the provisions of subsection (3) of section 531A.

Court to grant probate or letters of administration upon provisional certificate. [§76, Law 20 of 1977.]

532. In all cases of application for the grant of the administration of the deceased's property, whether with or without a will, the court shall, whether a respondent is named in the petition or not, direct notice of the order nisi in the form No. 84A in the First Schedule to be advertised twice in a local newspaper before the day of final hearing, the newspaper to be selected by the court with the object that the notice of the order nisi should come to the knowledge of all persons interested in the administration of the deceased's property:

Notice of order nisi to be advertised. [§77, Law 20 of 1977.]

Provided that the court may in its discretion direct such other mode of advertisement in lieu of such publication as to it seems sufficient.

533. If on the day appointed for final hearing, or on the day to which it may have been duly adjourned the respondent or any person upon whom the order nisi has been directed to be served, or any person then appearing to be interested in the administration of the deceased's property, satisfies the court that there are grounds of objection to the application, such as ought to be tried on viva voce evidence, then the court shall frame the issues which appear to

At final hearing on objection, court shall frame issues.

arise between the parties, and shall direct them to be tried on a day to be then appointed for the purpose under section 386.

which the court may require, on behalf of the corporation and the acts of such officer shall be binding on the corporation.

When order nisi shall be made absolute and

534. If at the final hearing, or on the determination of the issues thus framed, it shall appear to the court that the prima facie proof of the material allegations of the petition has not been rebutted, then the order nisi shall be made absolute, and probate or grant of administration with the will annexed, or grant of administration only, as the case may be, shall issue accordingly, subject to the conditions hereinafter prescribed. If, on the other hand, it shall then appear to the court that the prima facie proof of any material allegations in the petition has been rebutted, the order nisi shall be discharged, and the petition dismissed. And in the event of the respondent or objector having at such hearing or trial of issues established his right to have probate or grant of administration of the deceased's estate issued to him instead of to the petitioner, then the court shall further make an order to that effect in his favour:

535. At any time after the filing of a petition in a District Court, asking to have the will of a deceased person proved, or that the grant of probate thereof or of administration of a deceased person's property be made, and before the final hearing of the petition, it shall be competent to any person interested in the said will or in the said deceased person's property or estate, though not a respondent on the face of the petition, to intervene, by filing in the same court a caveat against the allowing of the petitioner's claim or a notice of opposition thereto, and any order nisi which may be made upon such petition shall be served upon such objector as if he had been originally named a respondent in the petition.

Who may file a caveat.

When discharged.

Effect thereof.

Provided, however, that the dismissal of the petition shall not be a bar to a renewal of the application by the petitioner as long as grant either of probate of the deceased's will, or of administration of his property, shall not have been made, either on the occasion of this application or subsequently thereto, to some other person than the petitioner.

536. In any case where probate of a deceased person's will has issued on an order absolute in the first instance, or a grant of administration of a deceased person's property has been made, it shall be competent to the District Court to recall the said probate or grant of administration, and to revoke the grant thereof, upon being satisfied that the will ought not to have been held proved, or that the grant of probate or of administration ought not to have been made; and it shall also be competent to the District Court to recall the probate or grant of administration at any time upon being satisfied that events have occurred which render the administration thereunder impracticable or useless.

Power of District Court to recall or revoke probate or grant of administration

Procedure where a corporation is appointed executor under a will. [§78, Law 20 of 1977.]

534A. (1) Where a corporation is appointed executor under a will either alone or jointly with another person, the court may grant probate to such corporation either solely or jointly with such other person as the case may require, and the corporation may act as executor accordingly.

537. All applications for the recall or revocation of probate or grants of administration shall be made by petition, in pursuance of the rules of summary procedure hereinbefore prescribed; and no such application shall be entertained unless the petitioner shows in his petition that he has such an interest in the estate of the deceased person as entitles him in the opinion of the court to make such application.

Applications therefor to be by petition.

(2) Letters of administration may be granted to any corporation either solely or jointly with another person and the corporation may act as administrator accordingly.

538. (1) In every case where an order absolute has been passed by a District Court declaring any person entitled to have issued to him probate of a deceased person's will, or grant of administration of a deceased person's property, it shall be the duty of the said person, executor, or administrator, in

Inventory and valuation.

(3) Any officer, authorized for the purpose by such corporation, may swear affidavits, take the oath of office, give security, and do any other act or thing,

whose favour such order is made, to take the oath of an executor or administrator according to the form prescribed in the First Schedule and thereafter to file in court, within a time to be appointed therefor in the order, an inventory of the deceased person's property and effects, with a valuation of the same, such inventory and valuation to be verified on oath or affirmation by the said executor or administrator in the form No. 92 in the said Schedule, and where the court requires it to enter into a bond with *two* good and sufficient sureties in the form No. 90 in the said Schedule, for the due administration of the deceased person's property.

Security.

(2) The bond so entered into shall render the sureties responsible in any suit brought for the administration of the deceased person's property for all deficiencies, depreciation, or loss of that property attributable to the default of their principal, and liable to make good the same to the same extent and in like manner as if the said default were their own, subject, however, to the conditions of the bond in that behalf.

[§79, Law 20 of 1977.]

(3) Where a banking, insurance or other corporation approved by the court stands surety, no other surety shall be necessary, nor shall a mortgage or hypothecation of the property be required-

Limited probate and administration.

539. It is competent to the District Court to make a grant of probate or a grant of administration, limited either in respect to its duration, or in respect to the property to be administered thereunder, or to the power of dealing with that property which is conveyed by the grant, in the following cases ;—

- (a) When the original will of the deceased person has been lost since the testator's death, but a copy has been preserved, probate of that copy may be granted, limited until the original be brought into court.
- (b) In the like event, and with the like limitation, if no copy has been preserved, probate of a draft will may be granted, or if in addition no draft is available, then probate of the contents or of the substance and effect of the will, so far as they can be established by evidence, may be granted.

(c) When the original will is in the hands of some person residing out of Sri Lanka, who cannot be compelled to give it up to the executor, and if the executor produces a copy, then probate of that copy may be granted, limited until the original be brought into court. If, however, the will has been duly proved out of Sri Lanka, probate may be granted to the executor on a proper exemplification of the foreign probate without any limitation in the grant.

(d) If the sole executor of a will resides, or if there- are more executors than one and all the executors reside, out of Sri Lanka, or such of the executors as reside in Sri Lanka decline to act, then the court may grant administration with copy of the will annexed to any person within Sri Lanka, as attorney of the executor or of the executors, who shall be appointed for that purpose by power of attorney, the grant so made being limited for the use and benefit of the principal until the executor or one of the executors comes in and obtains probate for himself. If the document admitted to proof in this case be a copy of or substitute for the original, on account of the original itself not being forthcoming by reason of one of the just-mentioned causes, the grant shall further be limited until the original is brought into court:

Provided also, that if the person applying for the grant is not the attorney of all the executors, where there are more than one. the grant of administration shall not be made to him until the remaining executors have declined to act.

(e) In the case of a will, and there being no executor within Sri Lanka willing to act, grant of administration with copy of the will annexed may be made to the attorney of an absent residuary legatee, or heir, limited until the

principal shall come in and obtain administration for himself; or in the like case, the grant may be made to the guardian of a minor residuary legatee, within Sri Lanka, limited during the minority, or to the manager of the estate of a residuary legatee who is of unsound mind, within Sri Lanka, limited during the unsoundness of mind.

- (f) In the case of intestacy, grants of administration of the deceased person's property may be made, limited in like manner to the guardian of a minor heir or to the manager of the estate of an heir who is of unsound mind.
- (g) The court may grant probate or administration limited to any particular property or for any particular purpose, in any case where it considers that a larger grant is unnecessary.

In all the foregoing cases, the material and relevant facts necessary to justify the court in making the limited grant must be set out in the petition of application, and must be established by prima facie evidence before the order is made, as is prescribed in sections 524 and 530.

[§80, Law 20 of 1977.]

Administration *pendente lite* [§81, Law 20 of 1977.]

539A. Where any legal proceeding touching the validity of the will of a deceased person or for obtaining, recalling or revoking grant of probate or letters of administration is pending, the court may, either on the ground of undue delay or otherwise, grant letters of administration to the estate of the deceased to an administrator limited for the duration of such proceeding; such administrator shall be subject to the immediate control of the court and act under its direction, and shall not have the right of distributing the estate.

Limited letters for sale of property of estate. [§81, Law 20 of 1977.]

539B. (1) Notwithstanding the provisions of section 55 of the Estate Duty Ordinance or of section 42 of the Estate Duty Act, as the case may be, where for the purpose of paying estate duty or for any other sufficient cause it becomes necessary to sell any property of the estate of a deceased person prior to the issue of probate or letters of administration the court may grant letters limited for the purpose of selling such property.

(2) Such property shall be specified in the grant and such grant shall expressly state that the letters are issued subject to the following conditions:—

- (a) that the sale shall be, if by private treaty, at the price fixed by court, or if by public auction, either at an upset price or otherwise;
- (b) that the net proceeds of sale shall be deposited in court within such time as the court may prescribe;
- (c) that the administrator to whom the letters are issued is not empowered to execute any deed of conveyance of immovable property prior to the confirmation of sale by the court; and
- (d) any other stipulation the court may in the circumstances deem fit to impose.

(3) Before making an order for grant of letters under this section the Commissioner-General of Inland Revenue and the respondents to the original petition for probate or letters of administration shall be given notice of the application and they or any other person interested in the estate shall be heard in opposition unless they or any of them shall have signified their assent to such sale.

540. If no limitation is expressed in the order making the grant, then the power of administration, which is authenticated by the issue of probate, or is conveyed by the issue of a grant of administration, extends to every portion of the deceased person's property, movable and immovable, within Sri Lanka, or so much thereof as is not administered, and endures for the life of the executor or administrator or until the whole of the said property is administered, according as the death of the executor or administrator, or the completion of the administration, first occurs.

Power of administration when not limited.

541. In all cases of the issue of probate security shall not be required, unless for some special reason the court deems that security is absolutely necessary for the protection of the estate; and in cases where

Court may dispense with security.

the grant of administration is limited in regard to the dealing with the property which is the subject thereof, it shall be within the discretion of the court to dispense with the giving of the bond under section 538 ; and in all cases the court may limit the amount secured by the bond to the value of the movable property, which appears to the court likely to come into the hands of the administrator and to be liable to misappropriation;

Provided that every order, dispensing with the bond or limiting the amount to be secured thereby in cases of administration or requiring security in cases of probate, shall adjudicate upon the facts upon which the court intends it to rest;

[§82, Law 20 of 1977.]

Provided further that in all cases of the issue of probate or grant of administration to a sole beneficiary under a will or the sole heir in the case of intestacy or where all the heirs being *sui juris* consent thereto, security shall not be required.

Person dying intestate, death to be reported by next of kin. [§2, 24 of 1969.]

542. When any person shall die in Sri Lanka without leaving a will, it shall be the duty of the widow, widower, or next of kin of such person, if such person shall have left property in Sri Lanka amounting to or exceeding in value twenty thousand rupees, within one month of the date of his death to report such death to the court of the district in which he shall have so died, and at the same time to make oath or affirmation or produce an affidavit verifying the time and place of such death, and stating if such is the fact that the intestate has left property within the jurisdiction of that or any other, and in that event what, court, and the nature and value of such property.

Penalty for neglect.

543. Every person made liable to report any death under, or to furnish any information required by, section 542, who shall wilfully omit to report such death or to furnish such information within the time therein prescribed therefor, shall be guilty of an offence, and liable to a fine not exceeding one thousand rupees-

Who may apply for administration in case of Intestacy. [§83, Law 20 of 1977.]

544. In any case where a person is so reported to have died intestate, any person interested in having the estate of such intestate administered may apply to such

court for grant- to himself of letters of administration; and the court shall have power, having regard, where there is a conflict of claims, to the provisions of section 523, to appoint such person administrator.

545. In case no such person shall apply for letters of administration, and it appears to the court necessary or convenient to appoint some person to administer the estate or any part thereof, it shall be lawful for the court in its discretion, and in every such case where the estate amounts to or exceeds in value twenty thousand rupees it shall be obligatory on such court, to appoint some person, whether he would under ordinary circumstances be entitled to take out administration or otherwise, to administer the estate, and all the provisions of sections 519 to 521, both inclusive, shall apply, so far as the same can be made applicable, to any such appointment.

In event of no application, court may appoint some person to administer the estate.

Compulsory, where the value of the estate is twenty thousand rupees or over. [§2, 24 of 1969.]

546. If any person shall die leaving property in Sri Lanka, the Judge of the court of any district in which such property shall be situate shall, on the facts being verified to his satisfaction and it being made to appear that there is not resident, within the local limits of his jurisdiction, some next of kin or other person entitled to administration of the estate of the person so dying, issue letters *ad colligenda* in the form No. 91 in the First Schedule to one or more responsible persons to take charge of such property until the same shall be claimed by some executor or administrator lawfully entitled to administer the same.

Issue of letters *ad colligenda*.

547. No action shall be maintainable for the recovery of any property, movable or immovable, in Sri Lanka belonging to or included in the estate or effects of any person dying testate or intestate in or out of Sri Lanka within twenty years prior to the date of institution of the action, where such estate or effects amount to or exceed in value the sum of twenty thousand rupees unless grant of probate or letters of administration shall first have been issued. In the event of any such property being transferred in any manner other than under the provisions of subsection (1) of section 539B of this Ordinance or under section 28 of the Estate Duty Ordinance or section 22

No action maintainable to recover property of testator or intestate of over twenty thousand rupees unless probate or administration has been taken out. [§ 84, law 20 of 1977.]

of the Estate Duty Act, as the case may be, without such probate or administration being so first taken out, every transferor or transferee of such property shall be guilty of an offence, and in addition to any penalty imposed under this Ordinance, it shall be lawful for the State to recover from such transferor and transferee or either of them, such sum as would have been payable to defray estate duty. The amounts so recoverable shall be a first charge on the estate or effects of such testator or intestate in Sri Lanka or any part of such estate or effects, and may be recovered by action accordingly.

unless it shall be made apparent to the court that such unusual trouble has fallen upon him as to entitle him, in the opinion of the court, to receive further remuneration.

Probate when executor is appointed for limited purpose.

548. When a person is appointed executor of a will for a particular purpose only of the will, and not executor of the will generally, probate will be granted to him limited for that purpose only.

552. Each executor or administrator shall be entitled to the full compensation allowed by law to a sole executor or administrator, unless there are more than three, in which case the compensation to which three would be entitled shall be apportioned among them all according to the services rendered by them respectively, and a like apportionment shall be made in all cases where there shall be more than one executor or administrator. But where the will provides a specific compensation for an executor or administrator, he shall not be entitled to any allowance other than that so provided, unless he files in court a written renunciation of the specific compensation.

Compensation of several executors.

Fresh grant, when allowed.

549. When a sole executor or a sole surviving executor to whom probate has been granted, or a sole administrator or a sole surviving administrator to whom a grant of administration has been made, dies leaving a part of the deceased's property unadministered, then a fresh grant of administration may be made in respect of the property left unadministered according to the rules hereinbefore prescribed for a first grant.

553. Every executor and administrator shall file in the District Court, on or before the expiration of twelve months from the date upon which probate or grant of administration issued to him, or within such further time as the court may allow, a true and final account of his executorship or administration, as the case may be, verified on oath or affirmation, with all receipts and vouchers attached, and may at the same time pay into court any money which may have come to his hands in the course of his administration to which any minor or minors may be entitled.

Filing of the account, and payment into court. [§85, Law 20 of 1977.]

Rectification of errors in grant.

550. Errors in names and descriptions, or in setting forth the time and place of the deceased's death or the purpose in a limited grant, may be rectified by the court, and the grant of probate or letters of administration may be altered and amended accordingly.

554. If any executor or administrator shall fail to pay over to the creditors, heirs, legatees, or other persons the sums of money to which they are respectively entitled, within one year after probate or administration granted, such executor or administrator shall be liable to pay interest out of his own funds for all sums which he shall retain in his own hands after that period, unless he can show good and sufficient cause for such detention.

Executor or administrator who fails to administer within the year liable for interest.

Compensation of executors and administrators.

551. Compensation shall be allowed to executors and administrators by way of commission as well on property not sold but retained by the heirs, as on property sold by such executors and administrators, at such rate not exceeding three *per centum*, and on cash found in the estate and on property specially bequeathed, at such rate not exceeding one and a half *per centum*, as the court shall, after taking into consideration the circumstances of each particular case with reference to the trouble incurred by such executors or administrators, determine. In no case shall a larger sum than five thousand rupees be allowed to any executor or administrator as such compensation,

554A. When any person shall die without leaving a will and leaving an estate under twenty thousand rupees in value, any heir of the deceased shall be entitled to apply to the District Court of the district within which he resides, or within which the deceased resided at the time of his death, or

When a certificate of heirship may be applied for. [§86, Law 20 of 1977.]

within which any property of the deceased's estate is situate, for a certificate that he is an heir of the deceased.

petitioner has failed to establish his claim the order nisi shall be discharged, and the petition dismissed :

Mode of application. [§86, Law 20 of 1977.]

554B. The application shall be made on petition by way of summary procedure setting out the relevant facts of the absence of the will, the death of the deceased, the value of the estate and the heirs of the deceased to the best of the petitioner's knowledge, and the grounds upon which the petitioner claims to be an heir.

Provided that it shall be open to any of the respondents at such hearing of issues to establish his right to be an heir of the deceased and to have a certificate of heirship issued to him, whether the petition is dismissed or not.

CHAPTER XXXVIII

[§87, Law 20 of 1977.]

INSOLVENT TESTAMENTARY ESTATES

The application shall be supported by sufficient evidence by way of affidavit to afford prima facie proof of the material allegations in the petition, and shall name the next of kin of the deceased as respondents.

554F. The estate of a deceased person shall be deemed to be insolvent—

When the estate of a deceased person is deemed to be insolvent. [§87, Law 20 of 1977.]

Court if satisfied with proof to make order nisi. [§86, Law 20 of 1977.]

554C. If the court is of opinion that the material allegations of the petition are proved, it shall make an order nisi declaring the petitioner's heirship, which order shall be served on the respondents and upon such other persons as the court shall think fit to direct, and shall come on for final hearing and disposal on a day to be named therein.

- (i) If upon the basis of a valuation of his assets and liabilities as at the date of his death or at any time subsequent thereto, it appears that the assets are or will be insufficient to pay in full the funeral, testamentary and administration expenses relating to the estate, and the claims of creditors ; or

At final hearing on objection court shall frame issues. [§86, Law 20 of 1977.]

554D. If on the day appointed for final hearing, or on the day to which it may have been adjourned, the respondent or any person upon whom the order nisi has been directed to be served, or any person then appearing to be interested in the administration of the deceased's property, satisfies the court that there are grounds of objection to the application, such as ought to be tried on viva voce evidence, then the court shall frame the issues which appear to arise between the parties, and shall try the same forthwith or on a day to be appointed for the purpose.

- (ii) if owing to execution proceedings being taken against the deceased or his estate or the difficulty of realizing any of the assets of the estate, or because of disputed claims, or for any other sufficient reason, the estate should be administered as an insolvent estate for the benefit of all parties interested in the estate.

When order nisi shall be made absolute and when discharged. [§86, Law 20 of 1977.]

554E. If at the final hearing or on the determination of the issues thus framed, it shall appear to the court that the prima facie proof of the material allegations of the petition has not been rebutted, then the order nisi shall be made absolute, and a certificate of heirship shall issue accordingly to the petitioner. If, on the other hand, it shall then appear to the court that the prima facie proof of any material allegations in the petition has been rebutted and that the

554G. (1) Where an estate is deemed to be insolvent at the date an application for probate or letters of administration is made, the petitioner shall, in addition to the other averments required to be stated in the petition for probate or letters, set out the material facts upon which adjudication that the estate should be deemed to be insolvent is claimed, and shall contain detailed lists showing—

Where estate insolvent, applicant for probate, &c., to take steps to have it so declared. [§87, Law 20 of 1977.]

- (a) the names of all persons who to the best of the petitioner's knowledge and belief have claims against the estate;

- (b) the last known place of abode or business of such persons;
- (c) the sums claimed by each of such persons and whether or not the sums claimed are liquidated or unliquidated amounts; and
- (d) whether or not the sums claimed or any part thereof are admitted by the petitioner.

(2) In the petition so filed, the persons who are required to be named as respondents to the application for probate or letters, shall be made respondents.

Where estate insolvent, executor or administrator to take steps to have it so declared. [§87, Law 20 of 1977.]

554H. (1) Where after grant of probate or letters an estate is deemed to be insolvent, the executor or administrator shall file a petition by way of summary procedure for an adjudication that the estate shall be deemed to be insolvent, and such petition shall set out the material facts and the lists as are required to be filed under the last preceding section.

(2) In such petition all persons named in the original petition for grant of probate or letters shall be made respondents.

Creditor, &c., may also apply for adjudication of estate as insolvent. [§87, Law 20 of 1977.]

554J. (1) It shall be competent for a creditor, heir, beneficiary, or other person interested in the estate, similarly to make application for adjudication that the estate should be deemed to be insolvent, and the provisions of section 554G shall, *mutatis mutandis*, apply to such application.

(2) The applicant for probate or letters or the executor or administrator of the estate, shall in addition be made respondent to such application.

Order *nisi* declaring estate insolvent. [§87, Law 20 of 1977.]

554K. Upon the court being satisfied that the facts stated in the petition are *prima facie* established, it shall enter a testamentary insolvency order *nisi* declaring the estate to be insolvent in the form No. 93A in the First Schedule.

When order *nisi* to be served. [§87, Law 20 of 1977.]

554L. A copy of the testamentary insolvency order *nisi* shall be served on each of the respondents named therein and notice of such order *nisi* in the form No. 93B in the First Schedule shall be advertised at the

expense of the petitioner not later than one month prior to the date fixed in such order *nisi* for the determination of the matters contained therein in accordance with the provisions of section 532.

554M. Any person interested in the estate shall be entitled to appear on the day fixed therein and may show cause or support the application, and the court may after due inquiry in accordance with the provisions of Chapter XXIV, either dismiss the petition or make the testamentary insolvency order *nisi* absolute.

Person interested may intervene. [§87, Law 20 of 1977.]

554N. The testamentary insolvency order absolute shall be in the form No. 93C in the First Schedule, and shall be advertised in the same manner as the order *nisi* and in such other manner if any, as the court shall consider necessary in the circumstances of the case.

Order absolute to be advertised. [§87, Law 20 of 1977.]

554P. As from the date on which the testamentary insolvency order *nisi* declaring the estate insolvent is made, all actions in respect of admitted claims and all execution proceedings against the estate of the deceased shall be stayed, subject however, to the right of any secured creditor who has taken out execution proceedings, to proceed to realize his security upon such conditions as the court, having regard to the provisions of the Insolvency Ordinance, shall order.

Actions and execution proceedings to be stayed after such order *nisi*. [§87, Law 20 of 1977.]

554Q. Where the executor named in the will or the widow or widower is unwilling to proceed with the due administration of an insolvent estate, or where the executor or administrator to whom probate or letters have been issued fails to administer the estate with reasonable despatch, the court may, having regard to the proper conservation of the estate and the interest of all parties before it, appoint any fit person to administer the estate.

When court may point fit administrator estate. [§87, Law 20 of 1977.]

554R. Where a testamentary insolvency order shall have been made, the estate shall be distributed in accordance with the following provisions:—

How insolvent estate to be distributed. [§87, Law 20 of 1977.]

- (a) the funeral, testamentary and administration expenses shall first be paid out of the assets available ;

(b) subject as aforesaid the provisions for the time being in force under the law of insolvency with respect to the estate of a person adjudged insolvent shall apply and be observed in regard to the respective rights of secured and unsecured creditors as to the debts and liabilities provable, the valuation of annuities and future and contingent liabilities, and the priorities of debts and liabilities.

amount to cover the property, if any, in Sri Lanka to which the letters of administration relate;

and may require such evidence, if any, as it thinks fit as to the domicile of the deceased person.

554W. The court may also if it thinks fit on the application of any creditor require, before sealing, that adequate security be given for the payment of debts due from the estate to creditors residing in Sri Lanka.

Security for payment of debts. [§87, Law 20 of 1977.]

Powers and obligations of executors and administrators. [§87, Law 20 of 1977.]

554S. An executor or administrator of an insolvent estate shall have the same powers and be subject to the same obligations as the assignee of an insolvent appointed under the Insolvency Ordinance.

554X. A duplicate of any probate or letters of administration sealed with the seal of the court granting the same, or a copy thereof certified as correct by or under the authority of such court shall have the same effect as the original,

Duplicate or copy of probate or letters of administration. [§ 87, Law 20 of 1977.]

Administration of estates not to be stayed due to appeal. [§87, Law 20 of 1977.]

554T. An appeal from a testamentary insolvency order *nisi* or absolute declaring an estate insolvent shall not have the effect of staying the further proceedings in administration, unless the Court of Appeal shall make order to the contrary.

554Y. The sealing of probate or letters of administration under this Chapter shall not affect the liability of an executor or administrator—

Liabilities of executors and administrators. [§87, Law 20 of 1977.]

[§87, Law 20 of 1977.]

CHAPTER XXXVIII B

FOREIGN PROBATES

Sealing of foreign probates or letters of administration. [§87, Law 20 of 1977.]

554U. Where a Court of Probate or other authority in a foreign country has either before or after the 15th day of December, 1977, granted probate or letters of administration in respect of the estate of a deceased person, probate or letters so granted may, on being produced to, and a copy thereof deposited with, a competent court, be sealed with the seal of that court and thereupon shall be of like force and effect and have the same operation in Sri Lanka as if granted by that court.

(a) to file within the time appointed by court an inventory of the deceased person's property and effects situated in Sri Lanka with valuation of same as required by section 538 ;

(b) to file, on or before the expiration of twelve months from the date of such sealing, a true and final account, as regards the deceased's property and effects situated in Sri Lanka, of his executorship or his administration, as the case may be, verified on oath or affirmation, with all receipts or vouchers attached as required by section 553 ; and

Conditions to be fulfilled before sealing. [§87, Law 20 of 1977.]

554V. The court shall, before sealing the probate or letters of administration under this Chapter, be satisfied—

(c) to be compelled to make a judicial settlement of his account as executor or administrator, with respect to the deceased's property situated in Sri Lanka, under the provisions of Chapter LV.

(a) that the testamentary duty has been paid or secured in respect of so much, if any, of the estate as is liable to testamentary duty in Sri Lanka; and

(b) in the case of letters of administration, that security has been given in a sum sufficient in

554Z. For the purpose of all estates to which this Chapter applies—

(a) all references in this Ordinance to any court as being the court from which grant of probate or letters of

Resealing court deemed to be court issuing probate or letters of administration. [§87, Law 20 of 1977.]

administration issued shall be construed as references to the court by which probate or letters of administration have been sealed under this Chapter and all references to the granting of probate or letters of administration or to an order absolute declaring a person entitled to such grant shall be construed as referring to the sealing of probate or letters of administration under this Chapter;

- (b) all references in the Stamp Ordinance to the grant of probate or letters of administration shall be deemed to include a reference to the sealing of probate or letters of administration under this Chapter, and all references to probate or letters of administration shall be deemed to include a reference to any probate or letters of administration or to any duplicate or certified copy thereof sealed under this Chapter.

British Courts Resealing Rules deemed to be in force. [§87, Law 20 of 1977.]

554AA. Notwithstanding the repeal of the British Courts Probate (Resealing) Ordinance*, the British Courts Resealing Rules, 1939, shall be deemed to be and to continue in force for the purposes of this Chapter as if the said Ordinance had not been repealed, and may be amended, varied, altered or rescinded by rules made under Article 136 of the Constitution.

Interpretation [§87, Law 20 of 1977.]

554BB. In this Chapter—

- "competent court " means—
 - (a) the District Court of Colombo; or
 - (b) the District Court within the local limits of whose jurisdiction—
 - (i) the estate or any part of the estate in Sri Lanka of the deceased person is situate ; or
 - (ii) the executor or administrator-or the attorney of the executor or administrator of that part of

the estate of the deceased person which is being administered outside Sri Lanka is resident;

" Court of Probate " means any court or authority by whatever name ' designated having jurisdiction in matters of probate ; and

" probate" and " letters of administration" include any instrument having in any foreign country the same effect which under the law of Sri Lanka is given to probate and letters of administration respectively.

CHAPTER XXXVIII

GENERAL AND TRANSITIONAL PROVISIONS [§87, Law 20, of 1977.]
IN TESTAMENTARY MATTERS

554CC. The provisions of the Stamp Ordinance shall apply to, and in relation to, every application, order or other document in testamentary proceedings and the executor or administrator, as the case may be, shall be personally liable for the payment of such stamp duty. The amount so paid by way of stamp duty shall be recoverable by the executor or administrator as a first charge on the estate of the deceased after the grant of probate or letters of administration.

Stamp duty to be first charge on the estate of the deceased. [§87, Law 20 of 1977.]

554DD. Where any person has prior to the 15th day of December, 1977, died in Sri Lanka leaving an estate and testamentary proceedings had not been commenced in respect of such estate before the 15th day of December, 1977, such proceedings may be instituted under the provisions of this Ordinance.

Transitional provisions. [§87, Law 20 of 1977.]

CHAPTER XXXIX

ACTIONS RELATING TO PERSONS OF UNSOUND MIND

555. The expression " person of unsound mind " as used in this Ordinance shall, unless the contrary appears from the

Definition of "person of unsound mind."

* Repealed by the Administration of Justice Law, No. 44 of 1973.

context, mean every person found by due course of law to be of unsound mind and incapable of managing his affairs.

District Court to institute inquiry.

556. (1) Whenever any person who is possessed of property is alleged to be a person of unsound mind, the District Court within whose jurisdiction such person is residing may, upon such application as is hereinafter mentioned, institute any inquiry for the purpose of ascertaining whether such person is or is not of unsound mind and incapable of managing his affairs.

Application for, how to be made.

[§88, Law 20 of 1977.]

(2) Application for such inquiry may be made on petition in the way of summary procedure by any relative of the person alleged to be of unsound mind, or by a Superintendent of Police, or at the instance of the Attorney-General, or if the property of the person alleged to be of unsound mind consists in whole or in part of land, or of any interest in land, by the Government Agent of the district in which it is situate.

When may petition be dismissed.

557. When the District Court on such application being made to it is not satisfied by affidavit or other evidence that such inquiry as aforesaid ought to be instituted, it shall dismiss the petition.

Procedure on court being satisfied that inquiry ought to be instituted.

558. When the District Court on any such application being made to it is satisfied by affidavit or other sufficient evidence that such inquiry as aforesaid ought to be instituted, it shall pass an order to that effect and then appoint a time and place for holding the inquiry.

Proceeding in such case.

559. As soon as such order shall have been passed, the District Court shall cause a copy of the petition and of the order made thereon to be served upon the person alleged to be of unsound mind. If it shall appear that the person alleged to be of unsound mind is in such a state that personal service on him would be ineffectual, the court may direct such substituted service of the petition and order as it shall think proper. The court may also direct a copy of such petition and order to be served upon any specified relative of the person alleged to be of unsound mind.

560. The District Court may also at any time before or pending the inquiry, require the person alleged to be of unsound mind to attend at such convenient time and place as it may appoint, for the purpose of being personally examined by the court or by any person from whom the court may desire to have a report of, or testimony as to, the mental capacity and condition of such person alleged to be of unsound mind. The court may likewise make an order authorizing any person or persons therein named to have access to the person alleged to be of unsound mind for the purpose of a personal examination.

Person alleged to be of unsound mind may be required to attend.

561. The District Court, if it think fit, may appoint two or more persons to act as assessors to the court in the said inquiry.

Assessors.

562. The issue to be tried on such inquiry shall be whether the person alleged to be of unsound mind is or is not of unsound mind and incapable of managing his affairs.

Issue.

563. The trial of this issue shall be effected by viva voce examination and cross-examination of witnesses, as nearly as may be as is hereinbefore directed for the trial of the matter of an ordinary civil action; and the inquiry, whether held in court or in a private house, shall be public.

Trial of issue to be public.

564. The person alleged to be of unsound mind shall be present at the inquiry and shall take part as a party defendant therein either by his registered attorney or counsel or in person, unless his state of health, or his behaviour, is such as to render either his being present or his participating in the proceedings unfitting or unseemly,

Person of unsound mind to be present.

Any relative of the person alleged to be of unsound mind may also, if the court thinks fit, appear and take part in the inquiry on behalf of the person alleged to be of unsound mind,

565. Upon the completion of the inquiry, the court shall adjudicate whether the person alleged to be of unsound mind is or is not of unsound mind and incapable of managing his affairs. And at the same time the court may make such order as to the

Adjudication on the Issue.

Costs.

payment of the cost of the inquiry by the person upon whose application it was made, or by the person alleged to be of unsound mind, if he be adjudged to be of sound mind, or out of his estate, if he be adjudged of unsound mind and incapable of managing his affairs, or otherwise, as it may think proper.

When petition to be dismissed after inquiry.

566. When a person has been adjudged not to be of unsound mind and not incapable of managing his affairs, the court shall dismiss the petition.

Manager to be appointed.

567. When a person has been adjudged to be of unsound mind and incapable of managing his affairs, the District Court shall appoint a manager of the estate. Any near relative of the person of unsound mind or any other suitable person may be appointed manager.

Guardian of person.

568. Whenever a manager of the estate of a person of unsound mind is appointed by the District Court, the court shall appoint a fit person to be guardian of the person of the person of unsound mind. The manager may be appointed guardian:

Provided always that the heir-at-law of the person of unsound mind shall not in any case be appointed guardian of his person.

Allowance to manager or guardian.

569. If the person appointed to be manager of the estate of a person of unsound mind, or the person appointed to be guardian of the person of a person of unsound mind, shall be unwilling to discharge the trust gratuitously, the court may fix such allowance or allowances to be paid out of the estate of the person of unsound mind as, under the circumstances of the case, may be thought suitable.

Duties of guardian.

570. The person appointed to be guardian of the person of a person of unsound mind shall have the care of his person and maintenance. When a distinct guardian is appointed, the manager shall pay to the guardian such allowance as shall be fixed by the court, either at the time when the guardian is appointed or afterwards, on an application made by such guardian by petition in the way of summary procedure, for the maintenance of the person of unsound mind and of his family.

571. Every manager of the estate of a person of unsound mind appointed as aforesaid may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a person of unsound mind ; and may collect and pay all just claims, debts, and liabilities due to or by the estate of the person of unsound mind. But no such manager shall have power to sell or mortgage the estate or any part thereof, or to grant a lease of any immovable property for any period exceeding five years, without an order of the District Court previously obtained.

Powers of manager.

Restrictions on manager's powers.

572. (1) Every person appointed by the District Court to be manager of the estate of a person of unsound mind shall, within a time to be fixed by the court, deliver in court an inventory of the immovable property belonging to the person of unsound mind, and of all such movable property, sums of money, goods, and effects as he shall receive on account of the estate, together with a statement of all debts due by or to the same. And every such manager shall furnish to the court annually, within three months of the close of the year, an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands.

Inventory.

Account.

(2) If any relative of the person of unsound mind, or the Attorney-General, by petition to the court, shall impugn the accuracy of the said inventory and statement, or of any annual account, the court may summon the manager and inquire summarily into the matter and make such order thereon as it shall think proper.

573. All sums received by a manager on account of any estate in excess of what may be required for the current expenses of the person of unsound mind or of the estate shall be paid into the kachcheri on account of the estate, and shall be dealt with thereafter in such manner as is prescribed by law in the case of suitors' deposits.

Excess over expenditure, to be paid into kachcheri.

574. It shall be lawful for any relative of a person of unsound mind to sue for an account from any manager, appointed under this Ordinance, or from such person after his removal from office or trust, or

Relative may sue for account.

from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Manager or guardian how to be removed. [§89. Law 20 of 1977.]

575. (1) The District Court, for any sufficient cause, may on the application of the guardian or of a relative of the person of unsound mind, or of the Attorney-General, Superintendent of Police, or (where the property of the person of unsound mind consists in whole or in part of land, or of any interest in land) of the Government Agent, made by petition in the way of summary procedure, remove any manager appointed by the court, and may appoint any other fit person in his room, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all moneys received or disbursed by him.

(2) The court may also, for any sufficient cause, in like manner remove any guardian appointed by the court.

Punishment for neglect or refusal to account.

576. The District Court may on any application made to it by a relative of the person of unsound mind or a public officer under section 575 impose a fine not exceeding five hundred rupees on any manager of the estate of a person of unsound mind who wilfully neglects or refuses to deliver his accounts or any property in his hands within the prescribed time or a time fixed by the court, and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of court, and may also commit him to close custody until he shall deliver such accounts or property.

Where not necessary court need not appoint manager.

577. If it appears to the District Court, having regard to the situation and condition in life of the person of unsound mind and his family, and the amount and description of his property, to be unnecessary to appoint a manager of the estate as hereinbefore provided, the court may, instead of appointing such manager, order that the property if money, or if of any other description the proceeds thereof, when realized in such manner as the court shall direct, be paid to such persons as the court may

think fit, to be applied for the maintenance of the person of unsound mind and his family.

578. (1) When any person has been adjudged to be of unsound mind and incapable of managing his affairs, if such person or any other person acting on his behalf, or having or claiming any interest in respect of his estate, shall represent by petition to the District Court, or if the court shall be informed in any other manner, that the unsoundness of mind of such person has ceased, the court may institute an inquiry for the purpose of ascertaining whether such person is or is not still of unsound mind and incapable of managing his affairs.

Further inquiry when person of unsound mind so found is alleged to have recovered.

(2) The inquiry shall be conducted in the manner provided in section 560 and the four following sections of this Ordinance ; and if it be adjudged that such person has ceased to be of unsound mind and incapable of managing his affairs, the court shall make an order for his estate to be delivered over to him, and such order shall be final.

579. In all cases in which this Chapter is applicable, the procedure herein provided shall be followed, anything in the Mental Diseases Ordinance to the contrary notwithstanding.

Saving of Mental Diseases Ordinance.

580. Every order made by a District Court under the provisions of this Chapter shall be subject to an appeal to the Court of Appeal, and such appeal may be prosecuted by, or at the instance of, the person suspected or adjudged to be of unsound mind, or of any relative or friend of his, or of any medical practitioner who shall have certified or testified to his state of mind ; and the Court of Appeal shall take cognizance of such appeal, and deal with the same as an appeal from an interlocutory order of the District Court, and make such order thereon as to the said court shall seem fit. And it shall be the duty of the District Court to conform to and execute such order.

Appeal to Court of Appeal.

580A. (1) The provisions contained in this Chapter, other than section 555 shall apply in the case of mentally deficient persons.

Provisions applicable to mentally deficient persons. [§14.53 of 1980.]

(2) For the purposes of this section, "mentally deficient persons", mean persons who are incapable of managing their own affairs by reason of being mentally ill, feeble, infirm or defective, though not adjudicated as persons of unsound mind in accordance with any law for the time being in force.

Proceedings exempt from stamp duty.

581. No stamp duty shall, attach or be payable for any application, process or other document filed in court under the provisions of this Chapter.

CHAPTER XL

ACTIONS FOR THE APPOINTMENT OF GUARDIANS

Certificate of right to have charge of minor's property.

582. Every person who shall claim a right to have charge of property in trust for a minor, under a will or deed, or by reason of nearness of kin, or otherwise, may apply to the Family Court for a certificate of curatorship ; and no person shall be entitled to institute or defend any action connected with the estate of a minor, of which he claims the charge, until he shall have obtained such certificate:

[§4, 24 of 1969.]

Provided that when the property is below the value of twenty thousand rupees, or for any other sufficient reason, any court having jurisdiction may allow any relative of a minor to institute or defend an action on his behalf, although a certificate of curatorship has not been granted to such relative;

And provided further that any such person so claiming to have charge of any such property under the provisions of a will, of which probate shall have been duly granted, may institute or defend any such action without having obtained such certificate.

Explanation.—A person to whom letters of administration of a deceased person's estate have been granted under Chapter XXXVIII of this Ordinance does not thereby obtain a right to have charge, within the meaning of this section, of such portion or share of his deceased's estate, if any there be, as descends to a minor heir.

583. Any relative or friend of a minor, in respect of whose property such certificate has not been granted, may apply by petition in the way of summary procedure to the Family Court, to appoint a fit person to take charge of the property and person or of either property or person of such minor.

Application for appointment of person to have charge of property or person of minor.

584. If the property is situate in more than one district, any such application as aforesaid shall be made to the Family Court of the district in which the minor at the time of the application resides.

To be made in district where minor resides.

585. (1) If it shall appear that any person claiming a right to have charge of the property of a minor is entitled to such right by virtue of a will or deed, and-is willing to undertake the trust, the court shall grant a certificate of curatorship to such person.

Charge of property of minor to whom to be granted.

(2) If there is no person so entitled, or if such person is unwilling to undertake the trust and there is any near relative of the minor who is willing and fit to be entrusted with the charge of his property, the court may grant a certificate to such relative.

(3) The court may also, if it think fit (unless a guardian has been appointed by the father), appoint such person as aforesaid or such relative, or any other relative or friend of the minor, to be guardian of the person of the minor.

Same person may be appointed guardian of person.

(4) The court may call upon any grama seva niladhari for a report on the character and qualification of any relative or friend of the minor who may be desirous or willing to be entrusted with the charge of the property or person of such minor, and who resides in the division.

Court may call upon grama seva niladhari to report on qualification.

586. If no title to a certificate is established to the satisfaction of the court by a person claiming under a will or deed, and if there is no near relative willing and fit to be entrusted with the charge of the property of the minor, and the court shall think it necessary for the interest of the minor that provision should be made by the court for the charge of the property and person of such minor, the court may grant a certificate to any fit person whom the court may appoint for the purpose.

When charge of property may be granted to any fit person.

Guardian to have charge of the person and maintenance, to be appointed at the same time,

587. (1) Whenever the court shall grant a certificate of curatorship to the estate of a minor who is resident in Sri Lanka to any person under the last section, it shall at the same time appoint a guardian to take charge of the person and maintenance of the minor,

(2) The person to whom a certificate of curatorship has been granted may be appointed guardian, provided he would not be the legal heir of the minor, if the minor then died.

his allowance.

(3) If the person appointed to be guardian be unwilling to discharge the trust gratuitously, the court may assign him such allowance, to be paid out of the estate of the minor, as under the circumstances of the case it may think suitable. The court may also fix such allowance as it may think proper for the maintenance and education of the minor; and such allowance and the allowance of the guardian (if any) shall be paid to the guardian by the other person as aforesaid.

(4) In any case in which the court is satisfied that it will be for the interest of the minor, it may direct the raising of such allowance out of the corpus of the estate, by mortgage or sale or such other mode of realization as it thinks fit.

Costs of inquiries.

588. (1) In all inquiries held by the Family Court under this Chapter, the court may make such order as to the payment of costs by the person on whose application the inquiry was made, or out of the estate of the minor, or otherwise, as it may think proper.

Inventory,

(2) Every curator other than one deriving title under a will or deed, to whom a certificate shall have been granted under this Chapter, shall, within a time to be fixed by the court, file in court an inventory of the property belonging to the minor, and shall also twice every year, namely, within one month from the first day of January and the first day of July, respectively, in each year, file an account of the property in his charge, exhibiting the amounts received and disbursed on account of the estate and the balance in hand.

Accounts.

Impeachment of the inventory and accounts.

589. Any relative of the minor or the minor himself by a next friend or the Attorney-General may, by petition and by way of summary procedure, impeach and falsify the correctness of the said inventory and periodic accounts, or complain of delay

in the filing, of them; and the court may on any such application make such order as it shall think proper.

590. It shall be lawful for any relative of a minor with the leave of the court, or the minor himself by a next friend, at any time during the continuance of the minority, to sue for an account from any person to whom a certificate shall have been granted under the provisions of this Ordinance, or from any such person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Any relative of minor may sue curator for accounts.

591. The Family Court, for any sufficient cause shown on petition by way of summary procedure preferred by the guardian, or by a relative, or by a next friend of the minor, or by the Attorney-General, may recall any certificate granted under this chapter and may grant a certificate to any other person; and may compel the person whose certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all moneys received and disbursed by him. The court may also sufficient cause in like manner remove any guardian appointed by the court.

Recall of the certificates.

592. (1) The Family Court may permit any person to whom a certificate shall have been granted under this Ordinance, and any guardian appointed by the court, to resign his trust; and may give him a discharge therefrom on his accounting to his successor, duly appointed, for all moneys received and disbursed by him, and making over the property in his hands.

Resignation and discharge of curator of property, or guardian of person of minor.

(2) The application to be discharged from the trust shall be made by petition in the way of summary procedure, in which petition a near relative of the minor or the Attorney-General shall be named a respondent; and it shall be competent to the court to direct that any other person be made a respondent.

593. Every curator other than one deriving title under a will or deed, to whom a certificate shall have been granted under this Chapter, if he is not willing to discharge the trust gratuitously, shall be entitled to receive such allowance, to be paid out of the minor's estate, as the Family Court shall by

Allowance of curator.

order, made when the curator is appointed or afterwards on an application made by the curator by petition in the way of summary procedure, think fit to direct.

Minor's education.

594. Every guardian appointed by the Family Court under this Chapter, who shall have charge of any minor, shall be bound to provide for his education in a suitable manner. The general superintendence and control of the education of all such minors shall be vested in the Family Court.

CHAPTER XLI

ACTIONS FOR APPOINTMENT AND REMOVAL OF TRUSTEES

Trustees.

595. Applications to the District Court for the exercise of its jurisdiction for the appointment or removal of a trustee, and not asking any further remedy or relief, may be made by petition in the way of the summary procedure hereinbefore prescribed.

CHAPTER XLII

MATRIMONIAL ACTIONS

Procedure in matrimonial actions.

596. In all actions for divorce *a vinculo matrimonii*, or for separation *a mensa et thoro*, or for declaration of nullity of marriage, the pleadings shall be by way of plaint and answer, and such plaint and answer shall be subject to the rules and practice by this Ordinance provided with respect to plaints and answers in ordinary civil actions, so far as the same can be made applicable, and the procedure generally in such matrimonial cases shall (subject to the provisions contained in this Chapter) follow the procedure hereinbefore set out with respect to ordinary civil actions.

Court of district in which petitioner resides to have jurisdiction.

597. Any husband or wife may present a plaint to the Family Court within the local limits of the jurisdiction of which he or she, as the case may be, resides, praying that his or her marriage may be dissolved on any ground for which marriage may, by the law applicable in Sri Lanka to his or her case, be dissolved.

Co-defendant.

598. Upon any such plaint presented by a husband, in which the adultery of the wife

is the cause or part of the cause of action, the plaintiff shall make the alleged adulterer a co-defendant to the said action, unless he is excused from so doing on one of the following grounds, to be allowed by the court upon an application for the purpose:—

- (1) that the defendant is leading the life of a prostitute, and that the plaintiff knows of no person with whom the adultery has been committed ;
- (2) that the name of the alleged adulterer is unknown to the plaintiff, although he has made due efforts to discover it;
- (3) that the alleged adulterer is dead;

and it shall be lawful in any such plaint to include a claim for pecuniary damages against such co-defendant.

599. The prayer to be excused from making the alleged adulterer a co-defendant and the allegations of fact upon which it is founded, supported by affidavit of fact or other sufficient evidence, shall be embodied in the plaint.

Affidavit where co-defendant is excused.

599A. The provisions of sections 598 and 599 shall, *mutatis mutandis*, apply where in a plaint presented by a wife, adultery of the husband is a cause of action.

Sections 598 and 599 to apply where adultery of the husband is alleged. [§91, Law 20 of 1977.]

602.* When the court is satisfied on the evidence that the case of the plaintiff has been proved, the court shall pronounce a decree declaring such marriage to be dissolved in the manner and subject to all the provisions and limitations in sections 604 and 605.

Decree to be passed declaring marriage dissolved. [§93, Law 20 of 1977.]

603. In any action instituted for dissolution of marriage, if the defendant opposes the relief sought on any ground which would have enabled him or her to sue as plaintiff for such dissolution, the court may in such action give to the defendant on his or her application the same relief to which he or she would have been entitled in case he or she had presented a plaint seeking such relief.

Defendant when entitled to relief.

* Sections 600 and 601 are repealed by Law No. 20 of 1977.

Decree to be made *nisi* in the first instance. [§94, Law 20 of 1977.]

604. Every decree for dissolution of marriage shall, in the first instance, be a decree *nisi* not to be made absolute till after the expiration of not less than three months from the pronouncement thereof, or such longer period as the court may prescribe in the said decree.

by a Family Court, whether entered before or after the 15th day of December, 1977, or

(b) notwithstanding that no application has been made under subsection (1) but where there has been a separation *a mensa et thoro* for a period of seven years,

Decree when to be made absolute.

605. Whenever a decree *nisi* has been made and no sufficient cause has been shown why the same should not be made absolute as in the last preceding section provided within the time therein limited, such decree *nisi* shall on the expiration of such time be made absolute :

apply to the Family Court by way of summary procedure for a decree of dissolution of marriage, and the court may, upon being satisfied that the spouses have not resumed cohabitation in any case referred to in paragraph (a), or upon the proof of the matters stated in an application made under the circumstances referred to in paragraph (b), enter judgment accordingly:

[§95, Law 20 of 1977.]

Provided that where such decree *nisi* is entered *ex pane*, the period during which the same should not be made absolute shall be computed from the date of service of such decree *nisi* on the defaulting party.

Provided that no application under this subsection shall be entertained by the court pending the determination of any appeal taken from such decree of separation. The provisions of sections 604 and 605 shall apply to such a judgment.

Actions of nullity of marriage.

607.* (1) Any husband or wife may present a plaint to the Family Court within the local limits of the jurisdiction of which he or she (as the case may be) resides, praying that his or her marriage may be declared null and void.

(2) Such decree may be made on any ground which renders the marriage contract between the parties void by the law applicable to Sri Lanka.

609. (1) In every case of such separation under this Chapter the wife shall, from the date of the sentence and whilst the separation continues, be considered as unmarried with respect to property of every description which she may acquire, or which may come to or devolve upon her. Separated wife's property.

Application for separation or for divorce whether after decree of separation or otherwise.

608. (I) Application for a separation *a mensa et thoro* on any ground on which by the law applicable to Sri Lanka such separation may be granted, may be made by either husband or wife by plaint to the Family Court, within the local limits of the jurisdiction of which he or she, as the case may be, resides, and the court, on being satisfied on due trial of the truth of the statements made in such plaint, and that there is no legal ground why the application should not be granted, may decree separation accordingly.

(2) Such property may be disposed of by her in all respects as an unmarried woman, and on her decease the same shall, in case she dies intestate, devolve as the same would have devolved if she had died unmarried :

Provided that if any such wife again cohabits with her husband, all such property as she may be entitled to when such cohabitation takes place shall be held to her separate use, subject, however, to any agreement in writing made between herself and her husband whilst separate.

[§97, Law 20 of 1977.]

(2) Either spouse may—

(a) after the expiry of a period of two years from the entering of a decree of separation under subsection (1)

610. In every case of such separation under this Chapter the wife shall, whilst so separated, be considered as an unmarried Separated wife's contracts & rights to sue.

* Section 606 is repealed by Law No. 20 of 1977.

woman for the purposes of contract, and wrongs and injuries, and suing and being sued in any civil proceedings; and her husband shall not be liable in respect of any contract, act, or costs entered into, done, omitted, or incurred by her during the separation :

Provided that where, upon any such separation alimony has been decreed or ordered to be paid to the wife, and the same is "not duly paid by the husband, he shall be liable for necessaries supplied for her use to the persons who supplied them;

Provided also that nothing shall prevent the wife from joining, at any time during such separation, in the exercise of any joint power given to herself and her husband.

When decree for separation may be revised by the court which made it.

611. (1) Any husband or wife, upon the application of whose wife or husband, as the case may be, a decree of separation has been pronounced, may, at any time thereafter, present a petition to the court by which the decree was pronounced, praying for a reversal of such decree, on the ground that it was obtained in his or her absence at the hearing, and that there was reasonable excuse for such absence, and also for the alleged desertion, where desertion was the ground of such decree.

(2) Such petition shall be deemed and shall be dealt with by the court as a plaint in a regular action, and the party in whose favour the decree of separation sought to be reversed was passed shall be made a defendant therein. And the court may, after trial in regular course of procedure, on being satisfied of the truth of the allegations of such petition, reverse the decree accordingly, but such reversal shall not prejudice or affect the rights or remedies which any other person would have had in case it had not been decreed, in respect of any debts, contracts, or acts of the wife incurred, entered into, or done between the time of

the sentence of separation and of the reversal thereof.

612. (1) Whenever in any plaint presented by a husband the alleged adulterer has been made a co-defendant, and the adultery has been established, the court may order the co-defendant to pay the whole or any part of the costs of the proceedings in addition to any damages which may be awarded, where such damages have been claimed;

Co-defendant may be order to pay costs.

Provided that the co-defendant shall not be ordered to pay the plaintiffs costs, nor shall any damages be awarded—

- (a) if the defendant was at the time of the adultery living apart from her husband and leading the life of a prostitute; or
- (b) if the co-defendant had not at the time of the adultery reason to believe the defendant to be a married woman.

(2) The provisions of the preceding subsection shall, *mutatis mutandis*, apply where a woman has been made a co-defendant.

[§98, Law 20 of 1977.]

614.* (1) In any action under this Chapter, whether it be instituted by a husband or a wife, the wife may present a petition for alimony pending the action. Such petition shall be preferred and dealt with as of summary procedure, and the husband shall be made respondent therein; and the court, on being satisfied of the truth of the statements therein contained, may make such order on the husband for payment to the wife of alimony pending the action as it may deem just:

Alimony *pendens* life.

Provided that alimony pending the action shall in no case be less than one-fifth of the husband's average net income for the three years next preceding the date of the order, and shall continue, in case of a decree for dissolution of marriage or of nullity of marriage, until the decree is made absolute or is confirmed, as the case may be.

* Section 613 is omitted, having been rendered inoperative by the repeal of section 606.

[§99, Law 20 of 1977.] (2) A husband may present a petition for alimony pending the action. The provisions of the preceding subsection shall apply, *mutatis mutandis*, to such application.

application of the whole or a portion of the property settled, whether for the benefit of the husband or the wife, or of the children (if any) of the marriage, or of both children and parents, as to the court seems fit;

[§99, Law 20 of 1977.] (3) Where one of the spouses is not possessed of sufficient income or means to defray the cost of litigation, the court may at any stage of the action order the spouse who is possessed of sufficient income or means to pay to the other spouse such sum on account of costs as it considers reasonable.

Provided that the court shall not make any order for the benefit of the parents or either of them at the expense of the children.

Settlement upon decree of divorce or separation. [§100, Law 20 of 1977.]

615. (1) The court may, if it thinks fit, upon pronouncing a decree of divorce or separation, order for the benefit of either spouse or of the children of the marriage or of both, that the other spouse shall do any one or more of the following:—

619. In any action for obtaining a separation, the court may from time to time, before making its decree, make such interim orders, and may make such provision in the decree as it deems proper with respect to the custody, maintenance, and education of the minor children, the marriage of whose parents is the subject of such action, and may, if it thinks fit, direct proceedings to be taken for placing such children under the protection of the said court.

Court may before decree for separation order maintenance of minor children.

- (a) make such conveyance or settlement as the court thinks reasonable of such property or any part thereof as he may be entitled to ;
- (b) pay a gross sum of money;
- (c) pay annually or monthly such sums of money as the court thinks reasonable;
- (d) secure the payment of such sums of money as may be ordered under paragraph (b) or paragraph (c) by the hypothecation of immovable property or by the execution of a bond with or without sureties, or by the purchase of a policy of annuity in an insurance company or other institution approved by court.

620. The court after a decree of separation may, upon application by way of summary procedure for this purpose, make from time to time all such orders and provisions, with respect to the custody, maintenance, and education of the minor children, the marriage of whose parents is the subject of the decree, or for placing such children under the protection of the said court, as might have been made by such decree or by interim orders in case the proceedings for obtaining such decree were still pending.

Court may after decree of separation make order respecting custody, &c., of minor children.

(2) The court may at any stage discharge, modify, temporarily suspend and revive or enhance an order made under subsection (1).

621. In any action for obtaining a dissolution of marriage or a decree of nullity of marriage, the court may from time to time, before making its decree absolute or its decree (as the case may be), make such interim orders, and may make such provision in the decree absolute or decree, as the court deems proper with respect to the custody, maintenance, and education of the minor children, the marriage of whose parents is the subject of the action, and may, if it thinks fit, direct proceedings to be taken for placing such children under the protection of the court.

Court may make interim order and also provide for custody, &c., of minor children in decree.

Court may inquire into ante-nuptial and post nuptial settlements.

618.* The court, after a decree absolute for dissolution of marriage or a decree of nullity of marriage, may inquire into the existence of ante-nuptial or post-nuptial settlements made on the parties whose marriage is the subject of the decree, and may make such orders, with reference to the

* Sections 616 and 617 are repealed by Law No. 20 of 1977.

Court may after decree absolute make orders respecting custody, &c., of minor children.

622. The court after a decree absolute for dissolution of marriage or a decree of nullity of marriage may, upon application by petition on summary procedure for the purpose, make from time to time all such orders and provisions, with respect to the custody, maintenance, and education of the minor children, the marriage of whose parents was the subject of the decree, or for placing such children under the protection of the said court as might have been made by such decree absolute or decree (as the case may be), or by such interim orders as aforesaid.

(2) No reversal, discharge, or variation of such decree or order shall affect any rights or remedies which any person would otherwise have had in respect of any contracts or acts of the wife entered into or done between the dates of such decree or order and of the reversal, discharge, or variation thereof.

Adjournment and further evidence.

623. The court may from time to time adjourn the hearing of any petition or plaint under this Chapter, and may of its own motion require further evidence thereon if it sees fit so to do.

(3) All persons who, in reliance on any such decree or order, make any payment to, or permit any transfer to be made, or act to be done by the wife who shall have obtained such decree or order, shall (notwithstanding the same may then have been reversed, discharged, or varied, or notwithstanding the separation of the wife from her husband may have ceased or may at some time since the making of the decree or order have been discontinued) be protected and indemnified as if at the time of such payment, transfer, or other act, such decree or order were valid and still subsisting without variation, and the separation had not ceased or been discontinued, unless at the time of the payment, transfer, or other act such persons had notice of the reversal, discharge, or variation of the decree or order or of the cessation or discontinuance of the separation.

Appeal.

624. All decrees and orders made by the court in any action or proceeding under this Chapter shall be enforced and may be appealed from, in the like manner as the decrees and orders of the court made in the exercise of its original civil jurisdiction are enforced, and may be appealed from under the laws, rules, and orders for the time being in force.

Enforcement of alimony and maintenance orders. [§102, Law 20 of 1977.]

624A. An order for alimony or maintenance made under this Chapter may be enforced either in accordance with the provisions of this Ordinance or in the manner provided in the Maintenance Ordinance.

627. Save as expressly otherwise provided in the Kandyan Marriage and Divorce Act and the Muslim Marriage and Divorce Act, nothing in this Chapter contained shall be taken to apply to any marriage between persons professing Islam or to any marriage affected by the provisions of the Kandyan Marriage and Divorce Act,

Saving of the application of this Chapter as to Muslim and Kandyan marriages. [§104, Law 20 of 1977.]

When parties may marry again. [§103, Law 20 of 1977.]

625. Upon a decree *nisi* for divorce being made absolute under the provisions of this Chapter, or when three months after the passing of the decree thereunder of nullity of marriage shall have elapsed, without an appeal having being taken therefrom, or upon the confirmation in appeal of any decree, but not sooner, it shall be lawful for the respective parties to the marriage to marry again as if the prior marriage had been dissolved by death.

Protection of third parties dealing with wife after decree made and before reversal.

626. (1) Every decree for separation or order to protect property obtained by a wife under this Chapter shall, until reversed or discharged, be deemed valid, so far as necessary for the protection of any person dealing with the wife.

628. When two or more persons claim adversely to one another payment of the same sum of money or delivery of the same property from another person, whose only interest therein is that of a mere stakeholder, and who is ready to render it to the right owner, such stakeholder may institute an action of interpleader against all the claimants, for the purpose of obtaining a decision as to the party to whom the

Interpleader actions.

CHAPTER XLIII

INTERPLEADER ACTIONS

payment should be made or the property delivered, and of obtaining indemnity for himself:

and entering into evidence for the purpose of bringing their respective claims before the court.

Provided that if any action is pending in which the rights of all parties can properly be decided, the stakeholder shall not institute an action of interpleader.

632. Nothing in this Chapter shall be taken to enable agents to sue their principals, or tenants to sue their landlords, for the purpose of compelling them to interplead with any person other than persons making claim through such principals or landlords.

Who may not be sued in Interpleader.

Form of plaint.

629. In every action of interpleader the plaintiff must, in addition to the other statements necessary for plaints, state—

- (a) that the plaintiff has no interest in the thing claimed otherwise than as a mere stakeholder;
- (b) the claims made by the defendants severally; and
- (c) that there is no collusion between the plaintiff and any of the defendants ;

Illustrations

- (a) A deposits a box of jewels with B as his agent. C alleges that the jewels were wrongfully obtained from him by A, and claims them from B. B cannot institute an interpleader action against A and C
- (b) A deposits a box of jewels with B as his agent. He then writes to C for the purpose of making the jewels a security for a debt due from himself to C. A afterwards alleges that C's debt is satisfied, and C alleges the contrary. Both claim the jewels from B. B may institute an interpleader action against A and C.

and such plaint shall also be supported by an affidavit of the plaintiff verifying the statements contained therein.

633. When the action is properly instituted, the court may provide the plaintiff's costs by giving him a charge on the thing claimed, or in some other effectual way.

Of the plaintiff's costs therein.

Property claimed to be deposited in court

630. When the thing claimed is capable of being paid into court or placed in the custody of the court, the plaintiff must so pay or place it before he can be entitled to any order in the action.

634. If any of the defendants in an interpleader is actually suing the stakeholder in respect of the subject of such action, the court in which the action against the stakeholder is pending shall, on being duly informed by the court which passed the decree in the interpleader action in favour of the stakeholder, that such decree has been passed, stay the proceedings as against him, and his costs in the action so stayed may be provided for in such action; but if and so far as they are not provided for in that action, they may be added to his costs incurred in the interpleader action.

Procedure where stakeholder is sued by defendant.

Procedure at the hearing.

631. At the hearing the court may—

- (a) declare that the plaintiff is discharged from all liability to the defendants in respect of the thing claimed, award him his costs, and dismiss him from the action;

or if it thinks that justice or convenience so require—

- (b) retain all parties until the final disposal of the action;

and if it finds that the admissions of the parties or other evidence enable it to do so, may—

- (c) adjudicate upon the title to the thing claimed ;

or else it may—

- (d) direct the defendants to interplead one another by filing statements

CHAPTER XLIV

ACTIONS WHICH FAIL FOR WANT OF JURISDICTION

635. When an action fails for want of jurisdiction in the court to entertain and determine the matter of the action on its merits, it shall, nevertheless, be competent to the court to make such order on the parties for the payment of costs as to it shall seem just; and every such order for the payment of costs is a decree for money within Chapter XX.

Power to make order for costs notwithstanding want of jurisdiction.

When want of jurisdiction caused by exclusive jurisdiction of any court or tribunal, averment of jurisdiction in plaintiff is traversed. [§105, Law 20 of 1977.]

636. When the want of jurisdiction is caused by reason of the exclusive jurisdiction of any court or tribunal, the averment in the plaint made in pursuance of section 45 shall be considered as traversed, whether the defendant in his answer is silent in reference to it or not; and it shall be the duty of the court to dismiss the action on this preliminary issue in bar at the earliest stage of the action whereat, by the admission of the parties or other evidence, it appears to the court that such court or tribunal has exclusive jurisdiction.

Order of dismissal not reversed on appeal, conclusive as to jurisdiction of other court. [§105, Law 20 of 1977.]

637. The order of court so dismissing the action shall adjudicate upon the facts which found the jurisdiction of such court or tribunal and if not appealed against, or if, in the event of an appeal, it is not reversed, this order shall be conclusive evidence of jurisdiction on the same claim being made before such court or tribunal.

And conversely. [§105, Law 20 of 1977.]

638. Also the decision of any court or tribunal declining jurisdiction shall be conclusive evidence against such jurisdiction in an action upon the same claim brought in any other court.

security to meet the same, and that he does verily believe that the defendant is about to quit Sri Lanka, and, if he shall at the same time further establish to the satisfaction of the Judge by affidavit or (if the Judge shall so require) by viva voce testimony such facts that 'the Judge infers from them that the defendant is about to quit Sri Lanka, and will do so unless he be forthwith apprehended, such Judge may order a warrant (form No. 100, First Schedule) to arrest the body of the defendant and to bring him before the court unless he shall give bail in, or make deposit of, such an amount as the said Judge shall consider reasonable and adequate, which amount the said Judge at the time of making the said order shall set out on the face thereof; and the said warrant may be executed within one calendar month from the date thereof, including the day of such date, and not afterwards, in any district of Sri Lanka;

Provided that if the plaintiff shall be in possession of any security in part, he or the person making the application on his behalf shall, on pain of punishment as for contempt of- court, set forth the same particularly in his application and the amount thereof, which amount shall be deducted from the amount of security to be required from the defendant.

PART V

PROVISIONAL REMEDIES

CHAPTER XLVII*

OF ARREST AND SEQUESTRATION BEFORE JUDGMENT

Arrest before judgment.

650.* If a plaintiff or one of several plaintiffs in any action, either at the commencement thereof or at any subsequent period before judgment, shall, by way of motion on petition, supported by his own affidavit and viva voce examination (should the Judge consider such examination desirable), subject, however, to the exceptions hereinafter contained, satisfy the Judge that he has a sufficient cause of action against the defendant, either in respect of a money claim of or exceeding one thousand five hundred rupees or because he has sustained damage to that amount, and that he has no adequate

[§106, Law 20 of 1977.]

651. The defendant being arrested on such a warrant shall at once be brought up before the court by which it was issued in custody of the Fiscal, unless he shall give reasonable security (form No. 101, First Schedule) to the Fiscal to appear and answer the plaintiffs claim and to abide by and perform the judgment of the court, or to surrender himself or be surrendered to be charged in execution for the same ; in which case the Fiscal shall be authorized to discharge him. If he is brought before the court under the warrant, or if he appears in discharge of the bail taken by the Fiscal, he must give bail (form No. 102, First Schedule) to abide by and perform the judgment of the court, and pay any sum or sums which may be awarded against him or to surrender himself or be surrendered by

Arrested person to be discharged on giving bail.

* Chapter XLV—Section 639, is repealed by Ordinance No. 9 of 1917 ;
 Sections 640 to 644 (both inclusive), are repealed by Ordinance No. 21 of 1927 ;
 Chapter XLVI— Sections 645 to 648 (both inclusive),—is repealed by Act No. 7 of 1949;
 Section 649 is repealed by Ordinance No. 21 of 1927.

otherwise committed to prison.

his sureties, to be charged in execution for the same ; or if he is unable or unwilling to give such bail, he shall be committed to prison (form No. 103, First Schedule) until he does so, or until the determination of the action ; and in the event of the decree being passed against him, then until the execution of the decree subject to the provisions of Chapter XXII in regard to imprisonment in execution of a decree for money ; and

Provided also that no person shall in any case be imprisoned under this section for a longer period than three months before decree.

Arrested person may deposit money with Fiscal instead of giving bail.

652. The defendant may, instead of giving bail, as is hereinbefore directed, deposit with the Fiscal or in court the sum mentioned in the warrant, and thereupon he shall be discharged from custody, and a minute of the same shall be made on the warrant; and the sum so deposited shall be applied in satisfaction of the judgment should the same eventually pass against the defendant, and the surplus, if any, shall be refunded to the defendant.

Of sequestration before judgment.

653. If a plaintiff in any action, either at the commencement thereof or at any subsequent period before judgment, shall, by way of motion on petition supported by his own affidavit and viva voce examination (if the Judge should consider such examination necessary) satisfy the Judge that he has a sufficient cause of action against the defendant, either in respect of a money claim of or exceeding one thousand five hundred rupees or because he has sustained damage to that amount, and that he has no adequate security to meet the same, and that he does verily believe that the defendant is fraudulently alienating his property to avoid payment of the said debt or damage ; and if he shall at the same time further establish to the satisfaction of the Judge by affidavit or (if the Judge should so require) by viva voce testimony such facts that the Judge infers from them that the defendant is fraudulently alienating his property with intent to avoid payment of the said debt or damage, or that he has with such intent quitted Sri Lanka leaving therein property belonging to him, such Judge may order a mandate (form No. 104, First Schedule) to issue to the Fiscal,

[§107, Law 20 of 1977.]

directing him to seize and sequester the houses, lands, goods, money, securities for money and debts, wheresoever or in whose custody soever the same may be within his district, to such value as the court shall think reasonable and adequate and shall specify in the mandate, and to detain or secure the same to abide the further orders of the court.

Explanation.—Sequestration of immovable property has the effect of sequestering all rents and profits which proceed thereout, pending the sequestration.

654. Before making the order for a warrant of arrest or mandate of sequestration, the Judge shall require the plaintiff to enter into a bond (form No. 105, First Schedule), with or without sureties, in the discretion of the Judge, to the effect that the plaintiff will pay all costs that may be awarded and all damages which may be sustained by reason of such arrest or sequestration, by the defendant or by any other person in whose possession such property shall have been so sequestered; and it shall be competent to the court to award such damages and costs of suit either to the defendant or to those in whose possession such property shall have been so sequestered.

Plaintiff to give security before such warrant of arrest or sequestration is issued.

655. In substitution for the affidavit of the plaintiff required by sections 650 and 653—

Who may make affidavit in lieu of plaintiff.

- (a) when the action is brought by the Attorney-General, then any officer of the State ; and
- (b) when the action is brought by a corporation, board, public body, or company, then any principal officer of such corporation, board, public body, or company ; and
- (c) when the plaintiff is absent from Sri Lanka, then his attorney duly authorized to bring and conduct the action; and
- (d) when the plaintiff, or if there are more plaintiffs than one when such of the plaintiffs as are in Sri Lanka, or when such attorney of the plaintiff as is just above-mentioned

is or are unable from want of personal knowledge or from bodily or mental infirmity to make the required affidavit, then any recognized agent of the plaintiff,

may be allowed by the court to make an affidavit in these matters instead of the plaintiff:

Provided that in each of the foregoing cases the person who makes the affidavit instead of the plaintiff must be- a person having personal knowledge of the facts of the cause of action, and must in his affidavit swear or affirm that he deposes from his own personal knowledge of the matter therein contained, and shall be liable to be examined as to the subject-matter thereof at the discretion of the Judge, as the plaintiff would have been if the affidavit had been made by him.

Punishment for wilful false statement.

656. Any person wilfully making any false statement by affidavit or otherwise in the course of any of the proceedings aforesaid may be punished as for a contempt of court, besides his liability to be tried and punished under the Penal Code for the offence of giving false evidence where such statement is on oath or affirmation.

Manner of sequestration.

657. The sequestration ordered in pursuance of section 653 shall be made in the manner hereinbefore provided for sequestration or seizure of property preliminary to sale thereof in execution of a decree for money.

Manner of investigating any claim to property sequestered.

658. If any claim be preferred to the property sequestered before judgment, such claim shall be investigated in the manner hereinbefore provided for the investigation of claims to property seized in execution of a decree for money.

Costs and damages where sequestration wrongful.

659. If upon any such investigation the court is satisfied that the property sequestered was not the property of the defendant, it shall pass an order releasing such property from seizure, and shall decree the plaintiff to pay such costs and damages by reason of such sequestration, as the court shall deem meet. If otherwise, the court shall disallow the claim, and make such order as to costs as it shall deem meet.

660. Sequestration before judgment shall not affect the rights, existing prior to the sequestration, of persons not parties to the action, nor bar any person holding a decree against the defendant from applying for the sale of the property under sequestration in execution of such decree.

Effect of sequestration on prior rights.

661. Where property is under sequestration by virtue of the provisions of this Chapter, and a decree is given in favour of the plaintiff, it shall not be necessary to again seize the property as preliminary to sale or delivery in execution of such decree.

Subsequent seizure of property under decree unnecessary.

CHAPTER XLVIII

OF INJUNCTIONS

662. Every application for an injunction for any of the purposes mentioned in section 54 of the Judicature Act, except in cases where an injunction is prayed for in a plaint in any action, shall be by petition, and shall be accompanied by an affidavit of the applicant or some other person having knowledge of the facts, containing a statement of the facts on which the application is based.

When Injunction may be granted. [§15,53 of 1980.]

663. An injunction granted by the court on any such application may in case of disobedience be enforced by the punishment of the offender as for a contempt of court.

Disobedience to injunction how punished.

664. The court shall in all cases, except when it appears that the object of granting the injunction would be defeated by the delay, before granting an injunction cause the petition of application for the same together with the accompanying affidavit to be served on the opposite party; and where the application is made after the defendant has answered, the injunction shall in no case be granted before such service. But the court may in its discretion enjoin the defendant until the hearing and decision of the application.

Application to be on notice to opposite party.

665. An injunction directed to a corporation or board or other public body or company is binding not only on the corporation, board, public body, or company itself, but also on all members or officers of the corporation, board, public body, or company whose personal action it seeks to restrain.

Effect on corporation, &c.

How set aside or varied.

666. An order for an injunction made under this Chapter may be discharged, or varied, or set aside by the court, on application made thereto on petition by way of summary procedure by any party dissatisfied with such order.

When court may award compensation to respondent.

667. If it appears to the court that the injunction was applied for on insufficient grounds, or if, after the issue of an injunction which it has granted, the action is dismissed or judgment is given against the applicant by default or otherwise, and it appears to the court that there was no probable ground for applying for the injunction, the court may, on the application of the party against whom the injunction issued, award against the party obtaining the same in its decree such sum as it deems a reasonable compensation for the expense or injury caused to such party by the issue of the injunction. An award under this section shall bar any action for compensation in respect of the issue of the injunction.

CHAPTER XLIX

OF INTERIM ORDERS

Order for sale of perishable property.

668. Any court may, on the application of any party to an action, order the sale by any person named in such order, and in such manner and on such terms as it thinks fit, of any movable property being the subject of such action, which is subject to speedy and natural decay. The party carrying out the sale shall, within such time as the court shall limit, and after deducting thereout such expenses as the court allows him, deposit the proceeds of the sale in court to the credit of the action.

Order for detention, preservation, or inspection of property.

669. The court may, on the application of any party to an action, and on such terms as it thinks fit—

- (a) make an order for the detention, preservation, or inspection and survey of any property being the subject of such action ;
- (b) for all or any of the purposes aforesaid authorize any person to enter upon or into any land or building in the possession of any other party to such action ; and

- (c) for all or any of the purposes aforesaid authorize any samples to be taken or any observation to be made, or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

670. Every application under either of the two preceding sections shall be made by petition in the way of summary procedure; and every party who is sought to be affected by the order must be named a respondent in the petition. Any such application may be made by a plaintiff after service of summons, or by a defendant after he has appeared in the action.

Application herein to be made by way of summary procedure.

CHAPTER L

OF THE APPOINTMENT OF RECEIVERS

671. Whenever it appears to the court to be necessary for the restoration, preservation, or better custody or management of any property, movable or immovable, the subject of an action, or under sequestration, the court may on the application of any party who shall establish a prima facie right to or interest in such property, by order—

When court may appoint a receiver.

- (a) appoint a receiver of such property, and, if need be,
- (b) remove the person, in whose possession or custody the property may be, from the possession or custody thereof;
- (c) commit such property to the custody or management of such receiver; and
- (d) grant to such receiver such fee or commission on the rents and profits of the property by way of remuneration as the court thinks fit, and all such powers as to bringing and defending actions and for the realization, management, protection, preservation, and improvement of the property, the collection of the rents and profits thereof, the application and

And give him powers over subject of action or sequestration.

disposal of such rents and profits, and the execution of instruments in writing, as the owner himself has, or such of those powers as the court thinks fit.

PART VI

OF SPECIAL PROCEEDINGS

CHAPTER LI

OF REFERENCE TO ARBITRATION

Notice of application.

672. Notice of an application for the appointment of a receiver under this Chapter must be served on the adverse party, unless he has left Sri Lanka without leaving a recognized agent, or unless he has failed to appear in the action and the time limited for his appearance has expired ; or if he has left a recognized agent, such notice may be given to such agent.

676. (1) If all the parties to an action desire that any matter in difference between them in the action be referred to arbitration, they may at any time before judgment is pronounced apply, in person or by their respective registered attorneys, specially authorized in writing in this behalf, to the court for an order of reference.

Matter in difference between parties may be referred to arbitration.

Receivers to give security and pass accounts.

673. Every receiver so appointed as aforesaid shall—

(2) Every such application shall be in writing and shall state the particular matters sought to be referred, and the written authority of the registered attorney to make it shall refer to it, and shall be filed in court at the time when the application is made, and shall be distinct from any power to compromise or to refer to arbitration which may appear in the proxy constituting the registered attorney's general authority to represent his client in the action.

Mode of submission.

(a) give such security (if any) as the court thinks fit duly to account for what he shall receive in respect of the property;

(b) pass his accounts at such periods and in such forms as the court directs;

(c) pay the balance due from him therein as the court directs ; and

(d) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

(3) The arbitrator shall be nominated by the parties in such manner as may be agreed upon between them.

Appoinimer of arbitration

(4) If the parties cannot agree with respect to such nomination or if the person whom they nominate refuses to accept the arbitration, and the parties desire that the nomination shall be made by the court, the court shall nominate the arbitrator.

when court may nominate arbitrator.

Power of court to remove, or require fresh security.

674. The court may at any time, on sufficient cause shown therefor, remove a receiver or require him to give fresh security.

677. (1) The court shall, by order, refer to the arbitrator the matter in difference which he is required to determine, and shall fix such time as it thinks reasonable for the delivery of the award and specify such time in the order.

The matter in difference to be referred to arbitrator b' order of cou

Powers conferable by the court not to exceed those of parties themselves.

675. Nothing in sections 671 and 673 authorizes or empowers the court to remove from the possession or custody of property under sequestration any person whom the parties to the action or some or one of them have or has not a present right so to remove.

(2) When once a matter is referred to arbitration, the court shall not deal with it in the same action, except as hereinafter provided.

678. (1) If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators—

Appointmer of an umpire

- (a) by the appointment of an umpire; or
- (b) by declaring that the decision shall be with the majority if the major pan of the arbitrators agree ; or
- (c) by empowering the arbitrators to appoint an umpire; or
- (d) otherwise, as may be agreed between the parties ; or if they cannot agree, as the court determines.

(2) Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or being guilty of any contempt to an arbitrator or umpire during the investigation of the matters referred, shall be subject to the tike disadvantages, penalties, and punishments, by order of the court on the representation of such arbitrator or umpire, as they would incur for the like offences in actions tried before the court.

Power of abritrators evidence.

(2) If an umpire is appointed, the court shall fix such time as it thinks reasonable for the delivery of his award in case he is required to act.

683. If from the want of the necessary evidence or information, or from any other cause, the arbitrators cannot complete the award within the period specified in the order, the court may, if it thinks fit, either grant a further time, and from time to time enlarge the period for the delivery of the award, or make an order superseding the arbitration, and in such case shall proceed with the action.

Extension of time for award.

In event of death, &c., court may appoint new arbitrator; or supersede arbitration.

679. If the arbitrator, or, where there are more arbitrators than one, any of the arbitrators, or the umpire, dies, or refuses, or neglects, or becomes incapable to act, or leaves Sri Lanka under circumstances showing that he will probably not return at an early date, the court may in its discretion either appoint a new arbitrator or umpire in the place of the person so dying, or refusing, or neglecting, or becoming incapable to act, or leaving Sri Lanka, or make an order superseding the arbitration, and in such case shall proceed with the action.

684. When an umpire has been appointed, he may enter on the reference in the place of the arbitrators—

When umpire may enter on the reference in lieu of arbitrators.

- (a) if they have allowed the appointed time to expire without making an award; or
- (b) when they have delivered to the court or to the umpire a notice in writing stating that they cannot agree.

When court may appoint umpire.

680. Where the arbitrators are empowered by the order of reference to appoint an umpire and fail to do so, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if within seven days after such notice has been served, or such further time as the court may in each case allow, no umpire be appointed, the court, upon the application of the party who has served such notice as aforesaid, may appoint an umpire.

685. When an award in an action has been made, the persons who made it shall sign it and cause it to be filed in court, together with any depositions and documents which have been taken and proved before them ; and notice of the filing shall be given to the parties.

Award to be filed in court.

Powers of umpire appointed after reference.

681. Every arbitrator or umpire appointed under the foregoing sections shall have the like powers as if his name had been inserted in the order of reference.

686. Upon any reference by an order of court the arbitrators or umpire may, with the consent of the court, state the award as to the whole or any part thereof in the form of a special case, for the opinion of the court; and after the filing of such special case upon notice to the parties, the court shall upon an appointed day hear argument and deliver its opinion thereon; and such opinion shall be added to and form part of the award.

Award may be in form of special case.

Court to issue process.

682. (1) The court shall issue the same processes to the parties and witnesses whom the arbitrators or umpire desire to examine as the court may issue in actions tried before it.

Application to set aside or correct the award.

687. Within fifteen days from the date of receipt of notice of the filing of the award any party to the arbitration may by petition apply to the court to set aside the award, or to modify or to correct the award, or to remit the award to the arbitrators for reconsideration, on grounds mentioned in the following sections.

- (a) corruption or misconduct of the arbitrator or umpire;
- (b) either party having been guilty of fraudulent concealment of any matter which he ought to have disclosed, or of wilfully misleading or deceiving the arbitrator or umpire;

When court may correct award.

688. The court may, by order, modify or correct an award—

- (c) the award having been made after the issue of an order by the court superseding the arbitration and restoring the action;

and no award shall be valid unless made within the period allowed by the court. When award is not valid.

- (a) where it appears that a part of the award is upon a matter not referred to arbitration, provided such part can be separated from the other part and does not affect the decision on the matter referred ; or
- (b) where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision.

692. (1) If the court sees no cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application has been made to set aside the award, or if it has been made and the court has refused such application, then the court shall, after the time for making such application has expired, on a day of which notice shall be given to the parties, proceed to give judgment according to the award ; or if the award has been submitted to it in the form of a special case, according to its own opinion on such case. Judgment to be according to the award.

Court may make order as to costs.

689. The court may also make such orders as it thinks fit respecting the costs of the arbitration, if any question arises respecting such costs and the award contains no sufficient provision concerning them.

When court may remit award for re-consideration.

690. The court may remit the award on any matter referred to arbitration to the reconsideration of the same arbitrators or umpire, upon such terms as it thinks fit—

(2) Upon the Judgment so given a decree shall be framed, and shall be enforced in manner provided in this Ordinance for the execution of decrees. And decree to be framed thereon.

- (a) where the award has left undetermined any of the matters referred to arbitration, or when it determines any matter not referred to arbitration;
- (b) where the award is so indefinite as to be incapable of execution;
- (c) where an objection to the legality of the award is apparent upon the face of it.

(3) No appeal shall lie from such decree except in so far as the decree is in excess of, or not in accordance with, the award.

When an award is void.

691. (1) An award remitted under section 690 becomes void on the refusal of the arbitrators or umpire to reconsider it.

693. (1) When any persons agree in writing that any difference between them shall be referred to the arbitration of any person named in the agreement, or to be appointed by any court having jurisdiction in the matter to which the agreement relates, the parties thereto, or any of them, may apply that the agreement be filed in such court. Agreement to refer any difference to arbitration may be filed in court.

When may an award be set aside.

(2) No award shall be set aside except on one of the following grounds, namely :—

(2) The application shall be by petition in the way of summary procedure as hereinbefore provided, in which the parties to the agreement other than the petitioner or petitioners shall be named respondents. Application therefor.

Court to order reference thereon.

694. On such application being made, if no sufficient cause be shown to the contrary, the court may cause the agreement to be filed, and shall make an order of reference thereon; and may also nominate the arbitrator when he is not named therein and the parties cannot agree as to the nomination.

Provisions of this Chapter to apply to such reference.

695. The foregoing provisions of this Chapter, so far as they are consistent with any agreement so filed, shall be applicable to all proceedings under an order of reference made by the court under the last preceding section, and to the award of arbitration and to the enforcement of the decree founded thereupon.

Award made on a reference independently of court may be filed in court.

696. When any matter has been referred to arbitration without the intervention of a Court of Justice, and an award has been made thereon, any person interested in the award may within six months of the making of the award apply to the court having jurisdiction over the matter to which the award relates, that the award be filed in court.

Application therefor.

697. The application shall be by petition in the way of summary procedure as hereinbefore provided, in which the parties to the arbitration other than the petitioner or petitioners shall be named respondents.

Filing and enforcement of such award-

698. If on the hearing of such application no ground such as is mentioned or referred to in sections 690 or 691, be shown against the award, the court shall order it to be filed, and such award shall then take effect as an award made under the provisions of this Chapter.

- (a) sum of money fixed by the parties, or to be determined by the court, shall be paid by one of the parties to the other of them; or
- (b) some property, movable or immovable, specified in the agreement, shall be delivered by one of the parties to the other of them; or
- (c) one or more of the parties shall do, or refrain from doing, some other particular act specified in the agreement.

(2) Every case stated under this section shall be divided into consecutively numbered paragraphs, and shall concisely state such facts and documents as may be necessary to enable the court to decide the question raised thereby.

700. If the agreement is for the delivery of any property, or for the doing, or the refraining from doing, any particular act, the estimated value of the property to be delivered, or to which the act specified has reference, shall be stated in the agreement.

When value of property is to be stated therein.

701. The agreement, if framed in accordance with the rules hereinbefore contained, may for the determination of the question or questions thereby raised be brought before the court which would have jurisdiction to entertain an action, the amount or value of the subject-matter of which is the same as the amount or value of the subject-matter of the agreement. And for this purpose it shall be presented to the court as an exhibit to a petition preferred by one or more of the parties to the agreement in the way of summary procedure, to which petition the other parties to the agreement shall be named respondent, and in which petition it shall be alleged that the agreement was duly executed by all the parties, and that the controversy is real, and that the agreement is submitted bona fide for the purpose of determining the rights of the parties ; such petition shall be verified by affidavit, and the prayer of the petition shall conform to the stipulations of the agreement within section 699.

To what court agreement may be presented.

CHAPTER LII

OF PROCEEDINGS ON AGREEMENT OF PARTIES

Agreed statement of case for decision of court.

699. (1) Parties claiming to be interested in the decision of any question of fact or law may enter into an agreement in writing, stating such question in the form of a case for the opinion of the court, and providing that upon the finding of the court with respect to such question—

Judgment and decree thereon.

702. If at the hearing of this petition on consideration of the evidence before it the court is satisfied that the allegations of the petition are established, and is further of opinion that the subject of the agreement is fit to be decided, then it shall proceed to pronounce judgment between the parties upon the facts and questions stated in the agreement, and upon the Judgment so given a decree shall be framed and passed, and shall be enforced in the manner provided in this Ordinance for the execution of decrees.

705. (1) The plaintiff who so sues and obtains such summons as aforesaid must on presenting the plaint produce to the court the instrument on which he sues, and he must make affidavit that the sum which he claims is justly due to him from the defendant thereon.

Instrument to be produced with the plaint, and affidavit to be made.

(2) If the instrument appears to the court to be properly stamped, and not to be open to suspicion by reason of any alteration or erasure or other matter on the face of it, and not to be barred by prescription, the court may in its discretion make an order for the service on the defendant of the summons above mentioned.

CHAPTER LIII

OF SUMMARY PROCEDURE ON LIQUID CLAIMS

Action by summary procedure on liquid claims.

703. All actions where the claim is for a debt or liquidated demand in money arising upon a bill of exchange, promissory note, or cheque, or instrument or contract in writing for a liquidated amount of money, or on a guarantee where the claim against the principal is in respect at such debt or liquidated demand, bill, note, or cheque, may, in case the plaintiff desires to proceed under this Chapter, be instituted by presenting a plaint in the form prescribed by this Ordinance, but the summons shall be in the form No. 19 in the First Schedule, or in such other form as the Supreme Court may from time to time prescribe.

(3) The day to be inserted in the notice as the day for the defendant's appearance shall be as early a day as can be conveniently named, regard being had to the distance of the defendant's residence from the court.

Summons to be of short date.

706. The court shall, upon application by the defendant, give leave to appear and to defend the action upon the defendant paying into court the sum mentioned in the summons, or upon affidavits satisfactory to the court which disclose a defence or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the court may deem sufficient to support the application and on such terms as to security, framing, and recording issues, or otherwise, as the court thinks fit.

When leave to defend maybe granted.

Defendant not to appear or defend except with leave.

704. (1) In any case in which the plaint and summons are in such forms respectively, the defendant shall not appear or defend the action unless he obtains leave from the court as hereinafter mentioned so to appear and defend ; and in default of his obtaining such leave or of appearance and defence in pursuance thereof, the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons, together with interest to the date of the payment, and such costs as the court may allow at the time of making the decree.

707. After decree the court may, under special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to appear to the summons and to defend the action, if it seem reasonable to the court so to do, and on such terms as the court thinks fit.

When court may set aside decree, &c.

Without such leave decree at once with speedy execution.

(2) The defendant shall not be required, as a condition of his being allowed to appear and defend, to pay into court the sum mentioned in the summons, or to give security therefor, unless the court thinks his defence not to be prima facie sustainable, or feels reasonable doubt as to its good faith.

708. In any proceeding under this Chapter the court may order the instrument on which the action is founded to be forthwith deposited with an officer of the court, and may further order that all proceedings shall be stayed until the plaintiff gives security for the costs thereof.

Court may order deposit of instrument.

709. The holder of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of

Recovery of expenses incurred in noting.

the expenses incurred in noting the same for non-acceptance, or non-payment, or otherwise, by reason of such dishonour, as he has under this Chapter for the recovery of the amount of such bill or note.

same from him, or who refuses to impart any knowledge or information he may have concerning the same, or to disclose any other fact which will in any way aid the petitioner in making discovery of such property, so that it cannot be inventoried and valued; and praying an inquiry respecting it, and that the person complained of may be cited to attend the inquiry and to be examined accordingly.

Saving clause. **710.** Except as provided in this Chapter, the procedure in actions under this Chapter shall be the same as the procedure in actions instituted under Chapter VII.

Special trial roll to be kept. **711.** In every court in which cases may be instituted under this Chapter, a special trial roll shall be kept of such cases in which issue has been joined. And it shall be competent for the Judge of such court to order such cases to be set down for hearing on such days, and on the day fixed for the hearing of any such case to direct the same to be called on for trial, in such order as to him shall appear best calculated to promote the ends of justice, any rule or practice of such court to the contrary notwithstanding:

(2) The petition may be accompanied by affidavits or other evidence tending to support the allegations thereof.

(3) If the court is satisfied upon the materials so presented that there are reasonable grounds for inquiry, it shall issue a citation accordingly, which may be made returnable forthwith, or at such future time as the court shall direct.

Provided that the parties to such case shall have received reasonable notice of the day of hearing.

713. (1) There shall be annexed to, or endorsed on, the citation an order signed by the Judge, requiring the person cited to attend personally at the time and place therein specified. Order to accompany citation.

(2) The citation and order must be personally served, and the service shall be ineffectual unless it is accompanied with payment or tender of the sum required by law to be paid or tendered to a witness subpoenaed to attend a trial in a civil court. Service of citation-

(3) Failure to attend as required by the citation and order may be punished as a contempt of court. Failure to obey citation.

PART VII

OF THE AIDING AND CONTROLLING OF EXECUTORS AND ADMINISTRATORS, AND THE JUDICIAL SETTLEMENT OF THEIR ACCOUNTS

CHAPTER LIV

OF AIDING, SUPERVISING, AND CONTROLLING EXECUTORS AND ADMINISTRATORS

714. (1) Upon the attendance of a person in obedience to such citation and order, he shall be examined fully and at large, on oath or affirmation, respecting any money or other property of the testator or intestate, or of which the testator or intestate was in possession at the time of or within two years preceding his death. Examination of person cited.

Proceedings to discover property withheld, &c. **712.** (1) An executor or administrator may present to the court from which grant of probate or administration issued to him a petition entitled as of the action in which such grant issued, setting forth upon knowledge, or information and belief, any facts tending to show that money or other movable property which ought to be delivered to the petitioner, or which ought to be included in his inventory and valuation, is in the possession, under the control, or within the knowledge or information of a person who withholds the

(2) A refusal to be sworn or to answer any question allowed by the court is punishable in the same manner as a like refusal by a witness in a civil case. Refusal to answer.

(3) In case the person cited puts in an affidavit that he is the owner of any of the said property, or is entitled to the possession thereof by virtue of any lien thereon or

special property therein, the proceedings as to such property so claimed shall be dismissed.

Further evidence,

715. In the absence of the affidavit last mentioned, either party may on any such inquiry produce further evidence in like manner and with like effect as upon a trial.

Unless the person cited gives security, decree awarding to possession to the petitioner.

716. Where it appears to the court, from the examination and other testimony, if any, that there is reason to suspect that money or other property of the testator or intestate is withheld or concealed by the person cited, the court shall, unless the person cited gives security by a bond entered into with the petitioner as obligee, with such sureties and in such penalty as the court approves, for the payment of the money or delivery of the property, or in default of such delivery for the payment to the obligee of the full value thereof, and in either case of all damages which may be awarded against the obligor for withholding the same whenever it shall be determined in an action brought by the obligee that it belongs to the estate of the testator or intestate, make a decree reciting the grounds thereof, and requiring the person cited to deliver possession of the money or other property, specifying the sum or describing the property, to the petitioner. But in the event of such security being given, and after payment within a time to be fixed therefor of any costs which the court may award to the petitioner, the proceedings shall be dismissed.

Disobedience to decree, contempt.

717. (1) Where the decree requires the person cited to deliver money, disobedience thereto may be punished as contempt of court.

Warrant to seize property.

(2) Where it requires him to deliver possession of other property, a warrant shall issue on the application of the petitioner directed to the Fiscal, and commanding him to search for and seize the property, if it is found in the possession of the person cited, or his agent, or any person deriving title from him since the presentation of the petition to deliver the same to the petitioner, and to return the warrant within sixty days.

(3) The issue of such a warrant does not affect the power of the court to enforce the decree, or any part thereof, by punishing a disobedience thereto.

718. (1) A creditor, or any person interested in the estate, may present to the court in the action in which grant of probate or administration issued, proof by affidavit that an executor or administrator has failed to file in court the inventory and valuation, and account (or a sufficient inventory and valuation, or sufficient accounts) required by law within the time prescribed therefor.

Executor, &c., how compelled to return inventory and accounts.

(2) Thereupon, or of its own motion, if the court is satisfied that the executor or administrator is in default, it shall make an order requiring the delinquent to file the inventory and valuation or accounts, or a further inventory and valuation or further accounts, as the case may be; or in default thereof to show cause at a time and place therein specified why he should not be attached.

(3) Upon the return of the order, if the delinquent has not filed a sufficient inventory and valuation or sufficient accounts, the court shall issue a warrant of attachment against him, and shall deal with him as for a contempt of court.

719. A person committed to jail under the provisions of the last preceding section may be discharged by the court upon his paying and delivering under oath all the money and other property of the testator or intestate, and all papers relating to the estate under his control, to the Judge, or person authorized by the Judge to receive the same.

How executor or administrator may be discharged from commitment.

720. In either of the following cases a petition, entitled as of the action in which grant of probate or administration issued, may be presented to the court which issued the same, praying for a decree directing an executor or administrator to pay the petitioner's claim, and that he be cited to show cause why such decree should not be made—

Petition by creditor or legatee to compel payment.

(a) by a creditor, for the payment of a debt, or of its just proportional part, at any time after twelve months have expired since grant of probate or administration;

(b) by a person entitled to a legacy, or any other pecuniary provision under a will, or a distributive share, for the payment or satisfaction

thereof, or of its just proportional part, at any time after twelve months have expired since such grant.

(2) The court shall thereupon, or of its own motion, if satisfied that the executor or administrator is in default, make order which shall be served on the delinquent, requiring him to file such final account on a date to be specified therein; and in default thereof to show cause why he should not be attached.

Citation to issue.

Hearing and decree.

721. On the presentation of such petition the court shall issue a citation accordingly, and upon the return thereof shall make such decree in the premises as justice requires. But in any case where the executor or administrator files an affidavit setting forth facts which show that it is doubtful whether the petitioner's claim is valid and legal, and denying its validity or legality absolutely, or upon information and belief, or where the court is not satisfied that there is money or other movable property of the estate applicable to the payment or satisfaction of the petitioner's claim, and which may be so applied without injuriously affecting the rights of others entitled to priority or equality of payment or satisfaction, the decree shall dismiss the petition, but such dismissal shall not prejudice the right of the petitioner to an action or accounting.

(3) Upon the day fixed in such order, if the delinquent has not filed a sufficient final account, the court may issue a warrant of attachment against him and deal with him as for contempt of court.

(4) A delinquent committed to jail under subsection (3) shall be discharged by the court upon his filing a sufficient final account.

(5) Every account so filed by the accounting party shall be in accordance with the specimen form No. IISA in the First Schedule with such variations as circumstances may require and shall set out distinctly—

Appeal.

722. Every order or decree made under the provisions of this Chapter shall be subject to an appeal to the Court of Appeal,

and liabilities of the deceased valued as in the inventory;

CHAPTER LV

OF THE ACCOUNTING AND SETTLEMENT OF THE ESTATE

(b) receipts and disbursements and transactions of property made by the accounting party up to the date to which his account is made up ;

Executor may file intermediate account at any time.

723. An executor or administrator may at any time voluntarily file in the court from which grant of probate or administration issued to him an intermediate account, and the vouchers in support of the same.

(c) the assets and liabilities as at the date to which the account is made up,

and all schedules thereto which would facilitate the taking of accounts.

Court may compel executor to file intermediate account at any time.

724. The court may in any case at any time, and either upon the application of a creditor or party interested or of its own motion, make an order requiring an executor or administrator to render an intermediate account.

(6) To each account filed shall be appended an affidavit of the accounting party to the effect that the account contains, according to the best of his knowledge and belief, a full and true statement of all assets and liabilities and of all his receipts and disbursements on account of the estate of the deceased and of all money and other property belonging to the estate which have come to his hands, or have been received by any other person by his order or authority for his use; and that he does not know of

Procedure where executor or administrator has failed to file an account under section 553. [§108, Law 20 of 1977.]

724A. (1) Any person interested in the estate may present to the court proof by affidavit that an executor or administrator has failed to file in court such account as is prescribed by section 553.

any error or omission in the account to the prejudice of any creditor of, or person interested in, the estate.

(7) The court may reject an account which does not comply with the provisions of this section and require the executor or administrator to file a sufficient account within a specified period.

Court to grant a discharge to the executor or administrator where estate has been duly administered and distributed. (§108, Law 20 of 1977.)

724B. (1) Where an executor or administrator files with his final account a receipt and discharge in the form No. 119A in the First Schedule (subject to such variations as circumstances may require) signed by the devisees, legatees, trustees, heirs, creditors or other persons entitled to or having an interest in the estate of the deceased, establishing that the entire estate has been duly administered and distributed, the court may grant him a discharge and enter an order that the estate has been fully administered..

(2) In any case where a receipt and discharge, or a sufficient receipt and discharge, is not filed with the final account the court may, on sufficient cause shown, grant further time to the executor or administrator to enable such a sufficient receipt and discharge to be filed.

(3) Where any such receipt and discharge has not been filed within the time allowed, or where any receipt and discharge has been refused, the court may direct that a copy of the final account be served upon the party failing or refusing to grant such receipt and discharge and requiring such person to appear in court on a day to be specified therein, to show cause, if any, why the final account should not be accepted as correct.

(4) Where such a person does not appear or upon appearance on the day so fixed he shows no cause against the acceptance of the final account the court shall grant a discharge to the executor or administrator and enter an order that the estate has been fully administered.

(5) Where such person contests the correctness or sufficiency of the account filed the court shall fix a date for a statement of objections to be filed by such

contestant and the executor or administrator shall, either on the date so fixed or prior thereto, file in court all receipts and vouchers in support and verification of the final account.

(6) The court shall inquire into such objections and shall make such order as the justice of the case may require and on the executor or administrator complying with such order discharge the executor or administrator and enter order declaring that the estate has been fully administered.

(7) Where, however, the objections are of such a nature that, in the opinion of the court, for the adjudication of the disputes raised therein all other parties interested in the estate shall have notice thereof, the court shall direct judicial settlement of the account in the manner provided in the succeeding sections.

725. In any of the following cases, and either upon the application of a party mentioned in the next section or of its own motion, the court may from time to time compel a judicial settlement of the account of an executor or administrator:—

- (a) where one year has expired since grant to him of probate or administration;
- (b) where such grant has been revoked, or for any other reason his powers have ceased;
- (c) where he has sold or otherwise disposed of any immovable property of the testator, or devisable interest therein, or the rents, profits, or proceeds thereof, pursuant to a power in the will, where one year has elapsed since the grant of probate to him.

726. (1) The application for a judicial settlement in the last section mentioned shall be by petition, entitled as of the action in which grant of probate or administration issued, and may be presented by a creditor, or by any person interested in the estate or fund, including a child born after the making of a will; or by any person in behalf of an infant so interested ; or by a surety in

Judicial settlement of account.

Who may apply for accounting.

the official bond of the person required to account, or the legal representative of such surety.

consolidation shall not affect any power of the court which might be exercised in either special proceeding.

Citation. (2) Upon the presentation thereof, citation shall issue accordingly; but in a case specified in paragraph (a) of the last preceding section the court may, if the petition is presented within less than eighteen months after the issue of probate or administration, entertain or refuse to entertain it in its discretion.

729. At any time after the expiration of one year since grant of probate or administration to an executor or administrator, he may present to the court which issued the same a petition, entitled as of the action in which such grant issued to him, praying that his account may be judicially settled, and that the creditors or persons claiming to be creditors, husband or wife, heirs, next of kin, and legatees (if any) of the testator or intestate, or, if any of those persons has died, his executor or administrator (if any), may be cited to attend the settlement. If one or more co-executors or co-administrators presents such a petition for a settlement of his separate account, it must pray that his co-executors or co-administrators be also cited. And upon the presentation of any such petition a citation shall issue accordingly.

Executor, &c., may petition for judicial settlement of his account.

Order to account. 727. (1) Upon the return of such citation, if the executor or administrator fails either to appear, or to show good cause to the contrary, or to present, in a proper case, a petition as prescribed in section 729, an order shall be made directing him to account within such a time and in such a manner as the court prescribes, and to attend before the court from time to time for that purpose. And the executor or administrator shall be bound by such order without service thereof, and if he disobeys it the court may issue a warrant of attachment against him, and the grant of probate or administration issued to him may be revoked.

730. (1) Upon the return of such citation the court must take the account and hear the allegations and proofs of the parties respecting the same.

Citation.

Hearing.

Supplemental citation. (2) If it appears that there is a surplus, distributable to creditors or persons interested, the court may at any time issue a supplemental citation, directed to such persons as must be cited upon the petition of an executor or administrator for a judicial settlement of his account, requiring them to attend the accounting.

(2) Any party may contest the account with respect to a matter affecting his interest in the settlement and distribution of the estate; and any party may contest an intermediate account rendered under section 724 in case the same has not been consolidated under section 728.

Person cited may bring in other parties. 728. (1) Upon the return of any citation issued under any of the foregoing sections of this Chapter, the executor or administrator may, if one year has expired since grant of probate or administration issued to him, present a petition as in the next section prescribed.

731. Any creditor or person interested in the estate, although not cited, is entitled to appear upon the hearing, and thus make himself a party to the special proceeding.

Creditor not cited may appear.

Proceedings. (2) A citation issued upon such a petition need not be directed to the petitioner in the special proceeding pending against the executor or administrator; but the hearing of the special proceeding shall be adjourned until the return of the citation so issued, whereupon the two special proceedings shall be consolidated. Such

732. Any executor or administrator whose grant has been revoked or who is desirous of resigning his office may, in the same action, present to the court a petition praying that his account may be judicially settled, and that his successor (if any) and the other persons specified in section 729 may be cited to attend the settlement. The proceedings thereon shall be regulated according to the provisions of the last three sections.

Executor, &c. whose grant has been revoked may petition.

Affidavit to be annexed to accounts.

733. To each account filed under this Chapter shall be appended an affidavit of the accounting party, to the effect that the account contains, according to the best of his knowledge and belief, a full and true statement of all his receipts and disbursements on account of the estate of the testator or intestate, and of all money and other property belonging to the estate which has come to his hands, or which has been received by any other person by his order or authority for his use; and that he does not know of any error or omission in the account to the prejudice of any creditor of, or person interested in, the estate.

Vouchers to be produced,

734. Upon every accounting by an executor or administrator, the accounting party must produce and file a voucher for every payment, except in one of the following cases:—

- (1) He may be allowed, without a voucher, any proper item of expenditure, not exceeding twenty rupees, if it is supported by his own uncontradicted oath or affirmation, stating positively the fact of payment and specifying where and to whom the payment was made :

Provided that all the items so allowed against an estate, upon all the accountings of all the executors or administrators, shall not exceed two hundred rupees.

- (2) If he proves, by his own or another's sworn testimony, that he did not take a voucher when he made the payment, or that the voucher then taken by him has been lost or destroyed, he may be allowed any item of which he satisfactorily proves the payment by the testimony of the person to whom he made it, or, if that person is dead or cannot be found, by any competent evidence other than his own or his wife's oath or affirmation.

But no such item shall be allowed unless the court is satisfied that the charge is correct and just.

735. The court may at any time make an order requiring the accounting party to make and file his account, or to attend and be examined on oath or affirmation touching his receipts and disbursements, or touching any other matter relating to his administration, or any act done by him under colour of his grant or after the death of the testator or intestate, and before the issue of such grant or touching any movable property of the testator or intestate owned or held by him at the time of his death.

Accounting party to be examined.

736. (1) Upon a judicial settlement of the account of an executor or administrator, he may prove any debt owing to him by his testator or intestate:

Court to determine claims.

Provided that a concise statement of such debt with an intimation of the petitioner's intention so to prove the same has been inserted in the petition.

(2) Where a contest arises between the accounting party and any of the other parties respecting any property alleged to belong to the estate, but to which the accounting party lays claim, or respecting a debt alleged to be due by the accounting party to the testator or intestate, or by the testator or intestate to the accounting party, the contest must be tried and determined in the same special proceeding and in the same manner as any issue arising on a civil trial.

737. From the death of the testator or intestate until the first judicial settlement of an account by the executor or administrator, the running of the Ordinance relating to the prescription of actions against a debt due from the deceased to the accounting party, or any other cause of action in favour of the latter against the deceased, is suspended, unless the accounting party was appointed upon the revocation of a former grant to another person; in which case the running of the Ordinance is so suspended from the grant to him until the first judicial settlement of his account. After the first judicial settlement of the account of an executor or administrator, the Ordinance begins again to run against a debt due to him from the deceased, or any other cause of action in his favour against the deceased.

Prescription.

738. Upon a judicial settlement of the account of an executor or administrator, the court may allow the accounting party for

Court may allow for property lost, &c.

property of the testator or intestate perished or lost without the fault of the accounting party.

And such decree shall be conclusive with respect to the matters enumerated in this section upon each party to the special proceedings who was duly cited or appeared, and upon every person deriving title from such party.

Effect of judicial settlement.

739. A judicial settlement under this Chapter, either by the decree of the District Court or upon an appeal therefrom, is conclusive evidence against all parties who were duly cited or appeared, and all persons deriving title from any of them at any time, of the following facts, and no others;—

- (a) that the items allowed to the accounting party for money paid to creditors, legatees, heirs, and next of kin, for necessary expenses, and for his services are correct;
- (b) that the accounting party has been charged with all the interest for money received by him and embraced in the account, for which he was legally accountable ;
- (c) that the money charged to the accounting party, as collected, is all that was collectible at the time of the settlement on the debts stated in the account;
- (d) that the allowances made to the accounting party for the decrease, and the charges against him for the increase, in the value of property were correctly made.

741. (1) In either of the following cases the decree may direct the delivery of unsold property, movable or immovable, or the assignment of an uncollected demand, or any other movable property, to a party or parties entitled to payment or distribution in lieu of the money value of the property ;—

When specific property may be delivered.

- (a) where all the parties interested, who have appeared, manifest their consent thereto by a writing filed in court;
- (b) where it appears that a sale thereof, for the purpose of payment of distribution would cause a loss to the parties entitled thereto-

(2) The value must be ascertained, if the consent does not fix it, by an appraisalment under oath made by one or more persons appointed by the court for the purpose.

742. Where an admitted debt of the testator or intestate is not yet due, and the creditor will not accept present payment with a rebate of interest, or where an action is pending between the executor or administrator and a person claiming to be a creditor of the deceased, the decree must direct that a sum sufficient to satisfy the claim, or the proportion to which it is entitled, together with the probable amount of the interest and costs, be retained in the hands of the accounting party, or paid into court for the purpose of being applied to the payment of the claim when it is due, recovered, or settled; and that so much thereof as is not needed for that purpose be afterwards distributed according to law.

When money may be retained.

743. Where a legacy or distributive share is payable to a person of unsound mind or a minor, the decree may, in the discretion of the court, direct it to be paid to the manager or curator, as the case may be, of the estate of such person of unsound mind or minor, and where a sum of less than one hundred rupees is so payable to a

Share of person of unsound mind or minor.

Decree for payment and distribution.

740. (1) When an account is judicially settled under the provisions of this Chapter, and any part of the estate remains and is ready to be distributed to the creditors, legatees, heirs, next of kin, husband, or wife of the testator or intestate, or their assigns, the decree must direct the payment and distribution thereof to the persons so entitled, according to their respective rights.

(2) If any person who is a necessary party for that purpose has not been cited, or has not appeared, a supplemental citation must be issued as prescribed in section 727.

(3) Where the validity of a debt, claim, or distributive share is not disputed, or has been established, the decree must determine to whom it is payable, the sum to be paid, and all other questions concerning the same

minor, the decree may direct that the same be applied to the maintenance or education of the minor. And such manager or curator shall apply and account for any sum received by him under this Chapter in manner in Chapters XXXIX and XL respectively provided with regard to sums coming to his hands as such manager or curator.

deceased person of unsound mind or mentally deficient person, or under paragraph (a) by the guardian of the person, and under paragraph (b) by the manager of the estate, of a person of unsound mind and mentally deficient person or by any public officer mentioned in section 556 ;

Appeal.

744. Every order or decree made under the provisions of this Chapter shall be subject to an appeal to the Court of Appeal.

In cases falling under paragraphs (c), (d), (e), and (f)—

by the minor after he has attained majority, or by the executor or administrator of a deceased minor, or under paragraph (c) by the guardian of the person, and under paragraph (d) by the curator of the estate of a minor;

CHAPTER LVI

OF ACCOUNTING IN CASES OF PERSONS OF UNSOUND MIND AND OF MINORS

Compulsory judicial settlement of accounts in cases of persons of unsound mind, mentally deficient persons and minors. [§ 16, 53 of 1980.]

745. A petition praying for the judicial settlement of the account of—

- (a) the manager of the estate of a person of unsound mind or mentally deficient person;
- (b) the guardian of the person of a person of unsound mind or mentally deficient person;
- (c) the curator of the estate of a minor;
- (d) the guardian of the person of a minor;
- (e) the next friend of a minor plaintiff;
- (f) the guardian for the action of a minor defendant;.

And in any case by the successor of any such manager, curator, guardian, next friend, or guardian for the action. But in cases falling under paragraphs (b), (d), (e), and (f) proof must be adduced to the satisfaction of the court that the person so required to account has received money or property of the minor for which he is liable to account and has not accounted.

746. A petition praying for the judicial settlement of his account and a discharge from his duties and liabilities may be presented in like manner by any of the persons described under paragraphs (a), (b), (c), (d), (e), and (f) of the last preceding section, in any case where a petition for a judicial settlement of his account may be presented by any other person as prescribed in the last section. The petition must pray that every person who might have so presented, a petition may be cited to attend the settlement.

Voluntary judicial settlement of accounts in case of persons of unsound mind and minors.

and that such persons may be cited to attend the settlement thereof, may in every case where such person is required by law to file accounts, be presented to the court having jurisdiction, in the manner in the last preceding Chapter provided, by any of the following persons respectively, namely :—

747. (1) Upon the presentation of any petition as mentioned in the last two sections, the court shall issue a citation accordingly.

Procedure.

(2) Sections 724 to 740 both inclusive shall be taken to apply as far as practicable, *mutatis mutandis*, to all proceedings under this Chapter. And the accounting party must annex to every account produced and filed by him an affidavit verifying the account.

In cases falling under paragraphs (a) and (b) by the person of unsound mind or mentally deficient person, after he has been found by adjudication to have ceased to be of unsound mind or mentally deficient, or by any relative or friend of the person of unsound mind or mentally deficient person, or by the executor or administrator of a

748. Every order or decree made under the provisions of this Chapter shall be subject to an appeal to the Court of Appeal.

Appeal.

CHAPTER LVII

PART VIII

GENERAL CLAUSES

OF APPEALS

CHAPTER LVIII

OF APPEALS AND REVISIONS

Requisites of petitions relating to persons of unsound mind, mentally deficient persons, minors, or trustees. [§17,53 of 1980.]

749. Every petition by which an application is made to a District Court for the exercise of its powers over or in respect of persons of unsound mind, mentally deficient persons, minors or trustees, as the case may be, shall state expressly that the petitioner does not know of any person interested in the subject of the petition or in the person sought to be affected by the order prayed for in the petition, who is likely to entertain any objection thereto, other than those who are named as respondents in the petition.

Citations.

750. But the court shall have power nevertheless to direct that the order nisi be served on any person or persons other than a respondent, whom it may consider entitled to have notice of the application.

Security bonds.

751. All security bonds made under or in pursuance of the provisions of Chapters XXXIX, and XL, XLI shall, unless otherwise expressly or by implication directed, be expressed to be made with the Registrar of the court for the time being, and in the case of bonds so made, upon each occurrence of a change of Registrar the new Registrar shall be deemed to take the place of, and to be substituted for, the Registrar whom he succeeds, as party obligee to the contract on the bond, and shall become such party as fully and completely in all respects as if he were originally made such party on the occasion of the making of the bond.

Security From managers and curators. [§18,53 of 1980.]

752. The District Court shall have the like power to make the person appointed manager of the estate of a person of unsound mind, or mentally deficient person, or the person appointed curator of a minor's estate, give security for the due administration of the estate as it has in the case of administrators of deceased persons' estates.

Powers of revision by Court of Appeal.

753. The Court of Appeal may call for and examine the record of any case, whether already tried or pending trial, in any court, for the purpose of satisfying itself as to the legality or propriety of any judgment or order passed therein, or as to the regularity of the proceedings of such court, and may upon revision of the case so brought before it pass any judgment or make any order which it might have made had the case been brought before it in due course of appeal instead of by way of revision.

Mode of preferring appeal. [§109, Law 20 of 1977.]

754. (1) Any person who shall be dissatisfied with any judgment pronounced by any original court in any civil action, proceeding or matter to which he is a party may prefer an appeal to the Court of Appeal against such judgment for any error in fact or in law.

(2) Any person who shall be dissatisfied with any order made by any original court in the course of any civil action, proceeding, or matter to which he is or seeks to be a party, may prefer an appeal to the Court of Appeal against such order for the correction of any error in fact or in law, with the leave of the Court of Appeal first had and obtained.

(3) Every appeal to the Court of Appeal from any judgment or decree of any original court, shall be lodged by giving notice of appeal to the original court within such time and in the form and manner hereinafter provided.

(4) The notice of appeal shall be presented to the court of first instance for this purpose, by the party appellant or his registered attorney within a period of fourteen days from the date when the decree or order appealed against was pronounced, exclusive of the day of that date itself and of the day when the petition is presented and of public holidays, and the court to which the notice is so presented shall receive it and

deal with it as hereinafter provided. If such conditions are not fulfilled, the court shall refuse to receive it.

(5) Notwithstanding anything to the contrary in this Ordinance, for the purposes of this Chapter—

"judgment" means any judgment or order having the effect of a final judgment made by any civil court; and

" order" means the final expression of any decision in any civil action, proceeding or matter which is not a judgment.

Notice of appeal. [§109, Law 20 of 1977.]

755. (1) Every notice of appeal shall be distinctly written on good and suitable paper and shall be signed by the appellant or his registered attorney and shall be duly stamped. Such notice shall also contain the following particulars:—

- (a) the name of the court from which the appeal is preferred;
- (b) the number of the action;
- (c) the names and addresses of the parties to the action ;
- (d) the names of the appellant and respondent;
- (e) the nature of the relief claimed :

Provided that where the appeal is lodged by the Attorney-General, no such stamps shall be necessary.

(2) The notice of appeal shall be accompanied by—

- (a) except as provided herein, security for the respondent's costs of appeal in such amount and nature as is prescribed in the rules made by the Supreme Court, or acknowledgment or waiver of security signed by the respondent or his registered attorney ; and
- (b) proof of service, on the respondent or on his registered attorney, of a

copy of the notice of appeal, in the form of a written acknowledgment of the receipt of such notice or the registered postal receipt in proof of such service.

(3) Every appellant shall within sixty days from the date of the judgment or decree appealed against present to the original court a petition of appeal setting out the circumstances out of which the appeal arises and the grounds of objection to the judgment or decree appealed against, and containing the particulars required by section 758, which shall be signed by the appellant or his registered attorney. Such petition of appeal shall be exempt from stamp duty.

(4) Upon the petition of appeal being filed, the court shall forward the petition of appeal together with all the papers and proceedings in the case relevant to the judgment or decree appealed against as speedily as possible, to the Court of Appeal, retaining however an office copy of the judgment or decree appealed against for the purposes of execution, if necessary. Such proceedings shall be accompanied by a certificate from the Registrar of the court stating the dates of the institution and decision of the case, in whose favour it was decided and the dates on which the notice and the petition of appeal were filed.

756. (I) On receipt of the petition of appeal, the Registrar of the Court of Appeal shall forthwith number the petition and shall enter such number in the Register of Appeals and notify the parties concerned by registered post.

Procedure in respect of and application for leave to appeal. [§109, Law 20 of 1977.]

(2) Every application for leave to appeal against an order of court made in the course of any civil action, proceeding or matter, shall be made by petition duly stamped, addressed to the Court of Appeal and signed by the party aggrieved or his registered attorney and shall be supported by affidavit and shall contain the particulars required by section 758. The appellant shall with such petition tender as many copies as may be required for service on the respondents.

(3) Upon an application for leave to appeal being filed, the Registrar of the Court of Appeal shall number such application and shall, as speedily as possible, submit such application to a Judge in Chambers.

(4) The application for leave to appeal shall be presented to the Court of Appeal for this purpose by the party appellant or his registered attorney within a period of fourteen days from the date when the order appealed against was pronounced exclusive of the day of that date itself and of the day when the application is presented and of public holidays and the Court of Appeal shall receive it and deal with it as hereinafter provided and if such conditions are not fulfilled, the Court of Appeal shall reject it.

(5) A Judge to whom an application for leave to appeal has been submitted may—

- (a) forthwith fix a date for the hearing of the application and order notice thereof to be issued on the respondent or respondents, or
- (b) require the application to be supported in open court by the petitioner or attorney-at-law on his behalf on a day to be fixed by such Judge; and the court having heard the petitioner or his attorney-at-law may reject such application or fix a day for the hearing of the application and order notice thereof to be issued on the respondent or respondents:

Provided that when an application is rejected under this subsection, the court shall record the reasons for such rejection.

(6) Where notice is ordered to issue, the Registrar of the Court of Appeal shall accordingly issue notice on each respondent or his registered attorney by registered post and shall also annex to it a copy of the petition of appeal furnished by the appellant. On the date specified in the notice, or on such other date as the court shall then fix, the court shall hear the application for leave to appeal and grant or refuse leave to appeal.

(7) Upon leave to appeal being granted, the Registrar of the Court of Appeal shall immediately inform the original court, and, unless the Court of Appeal has otherwise directed, all proceedings in the original court shall be stayed and the said court shall as speedily as possible forward to the Court of Appeal all the papers and proceedings in the case relevant to the matter in issue.

757. (1) The security to be required from a party appellant shall be by bond (form No. 129, First Schedule) with one or more good and sufficient surety or sureties, or shall be by way of mortgage of immovable property or deposit and hypothecation by bond of a sum of money sufficient to cover the cost of the appeal and to no greater amount.

Security to be by bond and with surety

(2) Security shall be dispensed with where the appellant is—

[§110. Law 20 of 1977]

- (a) the Attorney-General;
- (b) the spouse in a matrimonial action in whose favour an order for alimony *pendente lite* has been made;
- (c) an insolvent in respect of insolvency proceedings;
- (d) exempted from depositing security by any other written law.

758. (1) The petition of appeal shall be distinctly written upon good and suitable paper, and shall contain the following particulars:—

Form of appeal. [§111, Law 20 of 1977.]

- (a) the name of the court in which the case is pending;
- (b) the names of the parties to the action;
- (c) the names of the appellant and of the respondent;
- (d) the address to the Court of Appeal;
- (e) a plain and concise statement of the grounds of objection to the judgment, decree, or order appealed

against—such statement to be set forth in duly numbered paragraphs;

(f) a demand of the form of relief claimed.

In deciding appeal, court not confined to grounds set forth by appellant.

(2) The court in deciding any appeal shall not be confined to the grounds set forth by the appellant, but it shall not rest its decision on any ground not set forth by the appellant, unless the respondent has had sufficient opportunity of being heard on that ground.

Where petition to be rejected.

759. (1) If the petition of appeal is not drawn up in the manner in the last preceding section prescribed, it may be rejected, or be returned to the appellant for the purpose of being amended, within a time to be fixed by the court; or be amended then and there. When the court rejects under this section any petition of appeal, it shall record the reasons of such rejection. And when any petition of appeal is amended under this section, the -Judge, or such officer as he shall appoint in that behalf, shall attest the amendment by his signature.

[§112, Law 20 of 1977.]

(2) In the case of any mistake, omission or defect on the part of any appellant in complying with the provisions of the foregoing sections, the Court of Appeal may, if it should be of opinion that the respondent has not been materially prejudiced, grant relief on such terms as it may deem just.

When one of several plaintiffs or defendants may appeal against whole decree.

760. Where there are more plaintiffs or more defendants than one in an action, and the decree appealed against proceeds on any ground common to all the plaintiffs or to all the defendants, any one of the plaintiffs or of the defendants may appeal against the whole decree, and thereupon the Court of Appeal may reverse or modify the decree in favour of all the plaintiffs or defendants, as the case may be.

Death or change of status of party to appeal. [§113, Law 20 of 1977.]

760A. Where at any time after the lodging of an appeal in any civil action, proceeding or matter, the record becomes defective by reason of the death or change of status of a party to the appeal, the Court

of Appeal may in the manner provided in the rules made by the Supreme Court for that purpose, determine who, in the opinion of the court, is the proper person to be substituted or entered on the record in place of, or in addition to, the party who has died or undergone a change of status, and the name of such person shall thereupon be deemed to be substituted or entered of record as aforesaid.

CHAPTER LIX

OF THE EXECUTION OF DECREES UNDER APPEAL

761. No application for execution of an appealable decree shall be instituted or entertained until after the expiry of the time allowed for appealing therefrom:

Application for execution of decree not to be entertained till expiry of appealable time. [§114, Law 20 of 1977.]

Provided, however, that where an appeal is preferred against such a decree, the judgment-creditor may forthwith apply for execution of such decree under the provisions of section 763.

763*. (1) In the case of an application being made by the judgment-creditor for execution of a decree which is appealed against, the judgment-debtor shall be made respondent.

Application for execution of decree pending appeal must be on notice to debtor; and execution will only be granted on security.

If, on any such application, an order is made for the execution of a decree against which an appeal is pending, the court which passed the decree shall, on sufficient cause being shown by the appellant, require security to be given for the restitution of any property which may be taken in execution of the decree, or for the payment of the value of such property, and for the due performance of the decree or order of the Court of Appeal.

And when an order has been passed for the sale of immovable property in execution of a decree for money, and an appeal is pending against such decree, the sale shall, on the application of the judgment-debtor, be stayed until the appeal is disposed of, on such terms as to giving security or otherwise as the court which passed the decree thinks fit.

* Section 762 is repealed by Law No. 20 of 1977.

[§19,53 of 1980.]

(2) The Court may order execution to be stayed upon such terms and conditions as it may deem fit, where—

- (a) the judgment-debtor satisfies the court that substantial loss may result to the judgment-debtor unless an order for stay of execution is made, and
- (b) security is given by the judgment-debtor for the due performance of such decree or order as may ultimately be binding upon him.

the conditions precedent to the petition of appeal being entertained, which are prescribed in the last section, are fulfilled. Also, every such petition shall be presented immediately to the Court of Appeal in its appellate jurisdiction, and in addition to the prayer for relief in respect to the subject of appeal it shall contain a prayer that the appeal may be admitted notwithstanding the lapse of time.

to be presented "immediately to the Court of Appeal.

Exception in favour of the State.

764. No such security in appeal shall be required from the State or (when Government has undertaken the defence of the action) from any public officer sued in respect of an act alleged to be done by him in his official capacity.

767. On any such petition being forwarded to the Court of Appeal the question whether or not it ought to be admitted shall be a preliminary question to be determined forthwith on summary procedure, according to the provisions of alternative (b), section 377. If upon the hearing of this question the Court of Appeal is satisfied that the conditions prescribed in section 765 are fulfilled, it may order the petition of appeal to be admitted upon such conditions as to costs, security, or otherwise as to the court may seem just, and in the event of its doing so the Registrar shall, where the court of first instance is the Court of Appeal, proceed as in section 768 provided ; but where such court is a District Court, Family Court or Primary Court, the Court of Appeal shall issue a mandate to such court, directing it to forward to the Court of Appeal the record of the proceedings of the action in which the decree or order appealed from was passed; if, however, on the contrary, the court is not satisfied that the said conditions are fulfilled, it shall dismiss the petition and make such order as to costs as may seem to the court just;

Order of Court of Appeal thereon.

CHAPTER LX

OF APPEAL NOTWITHSTANDING LAPSE OF TIME

Appeal notwithstanding lapse of time.

765. It shall be competent to the Court of Appeal to admit and entertain a petition of appeal from a decree of any original court, although the provisions of sections 754 and 756 have not been observed:

Provided that the Court of Appeal is satisfied that the petitioner was prevented by causes not within his control from complying with those provisions ; and

Provided also that it appears to the Court of Appeal that the petitioner has a good ground of appeal, and that nothing has occurred since the date when the decree or order which is appealed from was passed to render it inequitable to the judgment-creditor that the decree or order appealed from should be disturbed.

Petition therefor,

766. In every such petition of appeal as is the subject of the last section the judgment-creditor shall be named respondent, and the petition shall be accompanied by a certified copy of the decree or order appealed from, and of the judgment on which it is based, as well as by such affidavits of facts and other materials as may constitute prima facie evidence that

CHAPTER LXI

HEARING OF THE APPEAL

768. When the petition of appeal has been preferred to the Court of Appeal in the manner in section 755 prescribed or in the event of the petition of appeal being presented immediately to the Court of Appeal, and when the order for the admission has been made, the Registrar of the Court of Appeal shall enter it in the roll of pending appeals, and the matter of the appeal shall come up for hearing before the court without further notice to the parties concerned, in accordance with the direction

Hearing of appeal [§116, Law 20 of 1977]

given to such Registrar by the President of the Court or any other Judge of the Court of Appeal authorized by him in that behalf;

Provided however that the preceding provisions of this section shall not in any event derogate from the right, power or authority of any division of the Court of Appeal or any Judge thereof to make any order in regard to any case or matter listed for hearing, order or disposal before such court or Judge;

Provided further that a list of the appeals pending before the court in their order on the roll, or of a sufficient number of them, be daily kept suspended upon the notice-board of the court, and that no appeal shall come on for hearing until it has been in that list in the case of appeals from District Courts or Family Courts for fourteen days, or in the case of appeals from Primary Courts for seven days ;

Provided also that the court may of its own motion or on the application of a party concerned and with reasonable notice to the parties accelerate or postpone the hearing of an appeal, upon any such terms as to the prosecution or the costs of the appeal, or otherwise as it may think fit.

Appellant and respondent to be heard.

769. (1) When the appeal comes on for hearing, the appellant shall be heard in support of the appeal. The court shall then, if it does not at once dismiss the appeal or affirm the decree appealed from, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.

[§117, Law 20 of 1977.]

(2) If the appellant does not appear either in person or by an attorney-at-law to support his appeal, the court shall consider the appeal and make such order thereon as it thinks fit:

Provided that, on sufficient cause shown, it shall be lawful for the Court of Appeal to reinstate upon such terms as the court shall think fit any appeal that has been dismissed under this subsection.

Power of court to adjourn hearing. [§118, Law 20 of 1977.]

770. If, at the hearing of the appeal, the respondent is not present and the court is not satisfied upon the material in the record or upon other evidence that the notice of

appeal was duly served upon him or his registered attorney as hereinbefore provided, or if it appears to the court at such hearing that any person who was a party to the action in the court against whose decree the appeal is made, but who has not been made a party to the appeal, is interested in the result of the appeal, the court may issue the requisite notice of appeal for service.

771. When an appeal is heard *ex parte* in the absence of the respondent, and Judgment is given against him, he may apply to the Court of Appeal to rehear the appeal; and if he satisfies the court that the notice of appeal was not duly served, or that he was prevented by sufficient cause from attending when the appeal was called on for hearing, the court may rehear the appeal on such terms as to costs or otherwise as the court thinks fit to impose upon him.

Rights of respondent to object to decree.

772. (1) Any respondent, though he may not have appealed against any part of the decree, may, upon the hearing, not only support the decree on any of the grounds decided against him in the court below, but take any objection to the decree which he could have taken by way of appeal, provided he has given to the appellant or his registered attorney seven days' notice in writing of such objection.

Rights of respondent at hearing.

(2) Such objection shall be in the form prescribed in paragraph (e) of section 758.

773. Upon hearing the appeal, it shall be competent to the Court of Appeal to affirm, reverse, correct or modify any judgment, decree, or order, according to law, or to pass such judgment, decree or order therein between and as regards the parties, or to give such direction to the court below, or to order a new trial or a further hearing upon such terms as the Court of Appeal shall think fit, or, if need be, to receive and admit new evidence additional to, or supplementary of, the evidence already taken in the court of first instance, touching the matters at issue in any original cause, suit or action, as justice may require or to order a new or further trial on the ground of discovery of fresh evidence subsequent to the trial.

Power of court to dismiss the appeal, affirm, vary or set aside the decree or direct new trial, &c. [§119, Law 20 of 1977.]

Judgment of the court, **774.** (1) On the termination of the hearing of the appeal, the Court of Appeal shall either at once or on some future day, which shall either then be appointed for the purpose, or of which notice shall subsequently be given to the parties or their counsel, pronounce judgment in open court; and each Judge may, if he desires it, pronounce a separate judgment.

[§120, Law 20 of 1977.] (2) The judgment which shall be given or taken down in writing, shall be signed and dated by the Judges, and shall state—

- (a) the points for determination;
- (b) the decision of the Judges thereon;
- (c) the reasons which have led to the decision;
- (d) the relief, if any, to which the appellant is entitled on the appeal in consequence of the decision.

Decree of the Court of Appeal **776*.** (1) The decree of the Court of Appeal shall be passed in accordance with the judgments of the Judges of which the bench hearing the appeal is composed, if they are unanimous in regard to it, but, if otherwise, in accordance with the judgments of the majority of them. It shall bear date the day on which the judgment was pronounced, and shall contain the following particulars:—

- how framed;
- (a) the heading "In the Court of Appeal";
 - (b) the court number and title of the appeal ;
 - (c) the names of the parties ;
 - (d) the names of the appellant and of the respondents cited;
 - (e) the parties present and heard ;
 - (f) a clear specification of the order made and relief granted or other determination of the appeal.

(2) The decree shall also state by what parties, and in what proportions, the costs of the action are to be paid.

(3) The decree shall be sealed with the seal of the court, decree to be sealed;

(4) As soon as the decree is sealed all the proceedings in the case sent up to the Court of Appeal (together with the petition of appeal and order thereon, if any, a copy of the judgment or judgments pronounced on appeal, and the decree of the Court of Appeal) shall be forthwith returned to the court of first instance ; which shall conform to and execute such decree in all particulars. after sealing of decree proceedings to be returned to court of first instance.

777. When a party entitled to any benefit (by way of restitution or otherwise) under a decree passed in an appeal under this Chapter desires to obtain execution of the same, he shall apply to the court which passed the decree against which the appeal was preferred ; and such court shall proceed to execute the decree passed in appeal, according to the rules hereinbefore prescribed for the execution of decrees in an action. Execution of the decree passed in appeal.

PART IX

OF SUMMARY PROCEDURE IN RESPECT OF CONTEMPTS OF COURT

CHAPTER LXV+

792++ In all courts the summary procedure to be followed for the exercise of the special jurisdiction to take cognizance of and to punish summarily offences of contempt of court, and offences declared by this Ordinance to be punishable as contempts of court, shall be that which is prescribed in the sections next immediately following. Summary procedure case of contempt.

793. The court shall issue a summons to the accused person in the form No. 132 in the First Schedule or to the like effect, which summons shall state shortly the nature of the alleged offence and the information or grounds upon which the summons is issued, and shall require the Summons to accused.

* Section 775 is repealed by Law No. 20 of 1977.

+ Chapter LXII—Section 778 is repealed by Law No- 20 of 1977.

+ Chapters LXIII and LXIV—Sections 779 to 791 (both inclusive)—are repealed by Ordinance No. 31 of 1909.

accused person to appear before the court on a day named in the summons to answer the charge.

When may court issue warrant simultaneously with summons,

794. It shall be competent to the court simultaneously with issuing such summons, or at any time after such summons has been issued, if it has reason to believe that the attendance of the accused person at the time appointed in the summons to answer the charge cannot otherwise be secured, to issue a warrant for his arrest in the form No. 133 in the First Schedule or to the like effect, which warrant shall recite the issuing of the summons, and the day appointed therein for the hearing of the charge, and shall command that the accused person after arrest be kept in custody until that day, and be then brought before the court to answer the charge in the summons;

Provided that the person arrested shall at any time after arrest be enlarged upon sufficient security, to an amount endorsed on the warrant by the court, either of the accused person's own bond or that of another person, for his appearance in court on the day named in the summons, being furnished to the officer in whose custody he is.

Judge to record minute of facts observed by him.

795. When the information upon which the charge is based is furnished to the court, either wholly or in part, by the personal observation of the Judge of the accused person's behaviour and language in his presence, the Judge shall at the time record a minute of the facts so observed by him, which shall be admissible as evidence at the hearing of the charge, and in such case no such summons as in section 793 is mentioned shall be necessary, but the accused person may be forthwith committed to jail or admitted to bail as in the last preceding section provided, and all further steps shall be taken in manner herein provided, as though such summons or summons and warrant as aforesaid had been issued.

On day of hearing court may ask accused if he admits truth of charge.

796. On the day appointed by the court for the hearing of the charge, or on any subsequent day to which the hearing may have been adjourned in consequence of the previous non-attendance of the accused

person, the court shall commence the hearing by asking the accused person whether or not he admits the truth of the charge; and if he does not admit the truth of the charge, the court shall proceed to take evidence (if any) which may be necessary in addition to the court minute under section 795 to establish the charge; and also to take the accused person's statement and any evidence which he may offer in answer to the charge.

797. (1) If the accused person admits the charge, or if after taking the evidence on both sides and considering the court minute and hearing the accused person's explanation the court finds the accused person guilty of the charge, it shall make out a conviction in the form No. 134 in the First Schedule or to the like effect, which shall recite the materials on which the conviction is founded, and adjudicate upon the material facts of the accused person's behaviour and language, with so much of the surrounding circumstances as cause these to constitute the offences of contempt of court. And the sentence passed by the court shall be recorded on this conviction.

Form of the conviction and sentence thereon.

(2) If the court finds the accused person not guilty of the charge laid, it shall dismiss the charge, and shall make and record an order to that effect.

When may court dismiss charge.

798. An appeal shall lie to the Court of Appeal from every order, sentence, or conviction made by any court in the exercise of its special jurisdiction to take cognizance of, and to punish by way of summary procedure the offence of contempt of court, and of offences by this Ordinance made punishable as contempt of court; and the procedure on any such appeal shall follow the procedure laid down in the Code of Criminal Procedure Act regulating appeals from orders made in the ordinary criminal jurisdiction of Magistrates' Courts.

Appeal to Court of Appeal.

799. Every sentence of fine or imprisonment passed by a court in exercise of its special jurisdiction to take cognizance of, and to punish by way of summary procedure the offence of, contempt of court, and offences by this Ordinance made punishable as contempt of court, shall be carried into effect in the same manner and according to the same procedure as is provided in the Code of

Procedure for carrying out sentence of court in case of conviction for contempt.

Criminal Procedure Act for carrying into effect sentences of fine or imprisonment passed by any court in the exercise of its ordinary criminal jurisdiction.

relevant to the charge, and may bind over any person to appear and give evidence before such Magistrate.

Sentences to be imposed under this Chapter. [§20,53 of 1980.]

800. The provisions of Article 105 (3) of the Constitution and sections 18 and 55 of the Judicature Act shall apply to the sentence of fine or imprisonment, as the case may be, that may be imposed on conviction for contempt under this Chapter by the various courts.

(2) The Magistrate shall receive such charge and proceed with it according to law.

836. At any time after a warrant of arrest has been issued under this Ordinance the court may cancel it on the ground of the serious illness of the person against whom the warrant was issued.

Warrant of arrest may be cancelled on ground of illness of party.

PARTX

CHAPTER LXVII*

MISCELLANEOUS

Privilege from arrest of Judges, parties, registered attorneys and counsel.

834f. No Judge, Magistrate, or other judicial officer shall be liable to arrest under civil process while going to, presiding in, or returning from his court. And where any matter is pending before a court having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto and their registered attorneys and counsel shall be exempt from arrest under civil process while going to or attending such court for the purpose of such matter, and while returning from such court.

837. (1) When a judgment-debtor has been arrested under this Ordinance, the court may release him, if in its opinion he is not in a fit state of health to undergo imprisonment.

Judgment-debtor under arrest may be released on ground of illness.

(2) When a judgment-debtor has been committed to Jail, he may be released therefrom—

(a) by the Commissioner of Prisons or by any two Visitors of the jail, on the ground of his suffering from any infectious or contagious disease; or

(b) by the committing court or any court having jurisdiction in the place at which such jail may be situate, on the ground of his suffering from any serious illness.

When may civil court send cases for investigation to Magistrate.

835. (1) When in a case pending before any court there appears to the court sufficient ground for sending for investigation to a Magistrate a charge of any such offence as is described in sections 190, 193, 196, 197, 202, 203, 204, 205, 206, 207, 452, 459, 462, 463, 464, or 466 of the Penal Code, which may be made in the course of any other action or proceeding or with respect to any document offered in evidence in the case, the court may cause the person accused to be detained till the rising of the court, and may then or sooner send him in custody to the Magistrate or take sufficient bail for his appearance before the Magistrate. The court shall send to the Magistrate the evidence and documents

838. A judgment-debtor released under the last preceding section may be rearrested, but the period of his imprisonment shall not in the aggregate exceed six months.

Released judgment-debtor may be rearrested.

839. Nothing in this Ordinance shall be deemed to limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.

Inherent powers of court saved.

*Chapter LXVI—Sections 801 to 833 (both inclusive)—is repealed by Law No. 20 of 1977.

+ Section 833A is repealed by Act No. 5 of 1964.

FIRST SCHEDULE

No. 1

[Section 10.]

FORM OF NOTICE OF MOTION FOR TRANSFER OF AN ACTION OR MATTER

In the Court of Appeal of the Republic of Sri Lanka

(Title of action. Ac., showing in what court it {spending.})

Take notice that the accompanying affidavit will be read and a motion made before the Court of Appeal at Colombo (or as the case may be) on the day of 19, at o'clock of the forenoon, or so soon thereafter as counsel may be heard, on the part of the defendant (or as the case may be) that this action (or prosecution, or matter) may be withdrawn from (name the court or place in which the action. &c: is pending} and may be transferred to (name the court or place to which transfer is desired); and that the plaintiff (or as before) may be ordered to pay to the applicant his costs of, and occasioned by, this application.

This..... day of 19.....

(Signed)

(Name and address of registered attorney or party giving notice.)

To (name and address of registered attorney or party to be served). (Annex to this notice copy of the affidavit on which motion is to be made.)

No. 2

[Section 10.]

FORM OF AFFIDAVIT IN SUPPORT OF MOTION FOR TRANSFER

(For formal pans see No. 75.)

1.—(State proceedings in court of institution.)

1.—(Where the motion is for transfer to a court of inferior jurisdiction.) The plaintiffs claim is for (stale nature and particulars of claim as furnished to defendant, and show that the action is within the jurisdiction of the court to which transfer is desired).

3.—(In the like case.) The plaintiff has no visible means of paying my costs should judgment not be given for the said plaintiff.

4.—(Show means of knowledge.)

5.—(Where the motion is for transfer to a court of superior jurisdiction.) I am advised, and verily believe, that upon the trial of the said action several difficult questions of law are likely to arise, and amongst others the following : (here slate the questions likely lo arise, and verify the facts raising them).

6.—(Stale special reasons, if any, for transfer.)

^.—(Show means of knowledge.)

8.—(Where defendant moves.) I have a good defence to this action upon the merits, and this application is not made for the purpose of embarrassing or delaying the plaintiff, but bona fide and for the purpose of obtaining a proper trial of the said action.

No. 3

[Section 18.]

FORM OF NOTICE TO A PERSON WHO THE COURT CONSIDERS SHOULD BE JOINED AS A CO-PLAINTIFF

(Title.)

To.....of.....

Whereas the above-named (plaintiff) has instituted the above-named action against the above-named (defendant) for

And whereas it appears to this court necessary that you should be added as a plaintiff in the said action, in order to enable this court effectually and completely to adjudicate thereon:

Take notice that you should on or before the day of 19, signify to this court whether you consent to be so added.

This day of..... 19

(Signed)..... District Judge.

CIVIL PROCEDURE CODE

[Cap. 105

No. 4

FORM OF AUTHORITY FOR THE APPEARANCE OF ONE OR MORE OF SEVERAL PLAINTIFFS OR DEFENDANTS ON BEHALF OF THE OTHER OR OTHERS OF THEM [Section 23.]

(Title.)

I, of (or We, of), plaintiff (or defendant, or plaintiffs, or defendants) in the above-named action, do hereby appoint of (and of), who is (are) also (plaintiff or defendant) in the said action, to appear, plead, and act for me (us) therein.

Witness my (our) hand (hands) this day of 19.....

(Signed).....
Address.....

No. 5

FORM OF GENERAL POWER OF ATTORNEY [Section 25.]

I, of do hereby constitute and appoint of my true and lawful attorney for me and in my name and on my behalf to appear, sue, or answer, and to receive all process in any action, appeal, or other judicial proceeding whatsoever in any court, and generally to act in all such proceedings in any way in which I might, if present, be permitted or called on to act.

Witness my hand this day of 19.....

(Signed).....
Address.....

No. 6

FORM OF APPOINTMENT OF A REGISTERED ATTORNEY BY THE ATTORNEY-GENERAL [Section 27.]

I, the undersigned, Attorney-General of the Republic of Sri Lanka, do hereby authorize and appoint gentleman, one of the Attorneys-at-Law of the Supreme Court of the Republic of Sri Lanka, to appear for me before the District Court of in a certain action to be instituted in the said court in my name at the instance of the state against one (or in a certain action instituted in the said Court by one against me as representing the state), wherein (state what the action is) to (sue or defend, as the case may be) and to represent the state therein, and generally to do and perform all such acts, matters, and things as may be necessary to be done and performed in and about the premises, and, if need be, to appeal from any judgment or order of the said District Court in the said action; hereby promising to ratify and confirm whatsoever the said attorney-at-law may lawfully do herein.

Given under my hand at..... this day of 19.....

The address for service of the said attorney-at-law is a t.....

Signature.....

No. 7

FORM OF APPOINTMENT OF A REGISTERED ATTORNEY [Section 27.]

Know all men by these presents that I, A. B., of (or we, A. B., of and C.D., oi), have nominated, constituted, and appointed, and do hereby nominate, constitute, and appoint attorney-at-law, to be registered attorney and for and in name and behalf before the to appear and therein to (sue or defend, as the case may be. showing what the action is).

And to receive and to take all moneys that may be paid to him by the said in the said action, and to move for and obtain in his name any order or orders from the said court for any payments of any sum or sums of money that may be deposited therein in respect of and to give all necessary receipts, releases, and discharges therefor. And if need be, to refer the case to the award and decision of arbitrators and to name an arbitrator for and for that purpose to sign any motion, submission, or bond ; or, if necessary, to allow and consent to a judgment being entered against as to said attorney-at-law shall appear fit and proper; and against any judgment, order, sentence, or decree interlocutory or final of the said Court to appeal; and every bond or recognizance whatsoever necessary in the course of proceedings for the prosecution of such appeal for and in name and as act to sign, and upon any judgment or order of the said Court to proceed to execution against the person and property of the said

And do further authorize and empower said attorney-at-law, to take and use all lawful ways and means, and to do and perform all such acts, matters and things as may be necessary in and about the premises which being personally present might or could lawfully do, and, if necessary, one or more attorney or attorneys-at-law or counsel, to appoint, and again at pleasure such appointment to revoke. And further promise and agree to release all kinds of irregularities, and to ratify, confirm, and allow all and whatsoever the said attorney-at-law or his substitute or substitutes, or the said counsel, shall do herein.

Witness hand a t this day of One thousand nine hundred and ,

The address for service of the said attorney-at-law is a t

Signature

No. 8

[Section 27.]

FORM OF REVOCATION OF SUCH APPOINTMENT

(Title.)

Know all men by these presents that I, A.B., of (or we, A.B., of and C.D., of), having received the leave of the above-named court in that behalf, do (and each of us doth) hereby revoke and cancel the paper writing filed in the above-named action, and dated (&c.), whereby I (we) have nominated and appointed of to be my (our) registered attorney (registered attorneys) in the said action ; and that the said has (have) from this date ceased to be my (our) registered attorney (registered attorneys) in the said action; and the said paper writing shall be henceforth of no force or effect.

The day of, 19

(Signed as the Proxy.)

No. 9

[Section 28.]

FORM OF NOTICE TO APPOINT A NEW REGISTERED ATTORNEY IN PLACE OF ONE CEASING TO ACT

(Title.)

To Y. Z. the defendant (or plaintiff) above named.

Take notice that you are hereby required to appoint another registered attorney in place of A. B., your former registered attorney of record, who (died, or was removed or suspended, or) became incapable to act by reason of (stale- reason, as the case may be) on or about the day of 19 and cause notice of such new appointment to be given to the undersigned at the under-written address.

The day of 19

(Signed) Party (or Registered Attorney)
Address

FORM OF NOTICE OF SUBSTITUTION OF NEW REGISTERED ATTORNEY IN PLACE OF ONE CEASING TO ACT [Section 28.]

(Title.)

To (party or registered attorney issuing the last preceding notice).

Take notice that the undersigned has been substituted (or where the party himself gives the notice, that I, the said Y. Z., have substituted name and address of new registered attorney) in the place of A. B; formerly registered attorney of record for (defendant or plaintiff) in the above-named action.

The day of 19

(Signed) Party (or Registered Attorney)

Address

No. 11

FORM OF APPOINTMENT OF AGENT TO ACCEPT SERVICE OF SUMMONS AND OTHER PROCESS (GENERAL AND SPECIAL) [Section 30.]

(Where the appointment is special, head with title of the action.)

I, of do hereby constitute and appoint of my agent to receive on my behalf the service of all summonses and other processes in (any action, appeal, or other civil proceeding whatsoever in any court, or where the appointment is special, substitute in the above-named action).

Witness my hand this day of 19.....

The address for service of the said is at.....

(Signed).....

Address.....

No. 11A

APPLICATION FOR REGISTRATION OF ADDRESS FOR SERVICE OF PROCESS [Section 30A] [§3, Law 12 of 1973.]

To the Registrar of Lands of.....

I (name in full and address) apply under section 30A of the Civil Procedure Code for registration in or in continuation of the folio (or folios) specified in B below of the address specified in A below as the address for service of process in any action upon the mortgage registered in the folio or folios specified in B below. Particulars of the instrument under which I derive title are given in C below.

A

ADDRESS FOR SERVICE

(Name of registered attorney or person to whom process is to be sent.) (Full postal address in Sri Lanka)

e.g., H. John Perera, No. 18, Maliban Street, Pettah, Colombo.

B

FOLIO (OR• FOLIOS) IN WHICH THE ADDRESS IS TO BE REGISTERED

Volume:..... Folio:..... Volume:..... Folio:.....

C

PARTICULARS OF INSTRUMENT UNDER WHICH APPLICANT DERIVES TITLE

- (1) Number and date of deed :
- (2) Name of attesting notary :
- (3) Volume and folio where the deed is registered :
- 2. I further declare that my address for service previously registered; with you on in volume folio is hereby cancelled.
- 3. The registration fee of Rs..... is enclosed in stamps.

(Signature of applicant.)

*No. 14

[Sections 40-46.]

FORMAL PARTS OF THE PLAINT

In the District Court of Colombo (or Primary Court, as the case may be).

A. B., of (names, descriptions, and addresses of all the plaintiffs, and if they or any of them sue in any representative capacity, slate the capacity—e.g., " as executor of C. D. " or " administrator of the estate of £. F. " — or if the plaintiff is a minor or person of unsound mind appearing by his next friend or manager, say " a minor, by C. D., of his next friend ")..... .. Plaintiff.

Against

Y. Z; of (names, descriptions, and addresses of all the defendants as above, slating the capacity, if any, as above in which any of them are sued) Defendant.

The..... day of....., 19

The plaintiff of the above-named plaintiff (or plaintiffs) (and if the case is so add: appearing by G. H; his registered attorney) slates as follows :

(Here set forth the cause of action, and if there are more than one, thus:)

First: For a first cause of action—1. That, &c., &c., according to forms following.

Second: And for a second cause of action—1. That, &c., &c.,

Wherefore the plaintiff (or plaintiffs) prays for judgment against the defendant (or defendants) for the sum of rupees, together with interest thereon at the rate of..... per centum per annum from the day of 19 ... (or when the action is for the recovery of sums which became payable at different times oral varying rates of interest, with interest at the rate of..... per centum per annum on rupees from the day of 19 ... and at the rate of on rupees from the day of 19 ... , until payment in full; or if the action is brought to recover specific goods, and the plaintiff prays for a return of the said goods or their value, and rupees as damages for their detention ; or if the action is brought to recover lands or houses or the like, and the plaintiff prays judgment for the said premises and for possession thereof, and rupees as damages, or rupees per month as mesne profits, as she case may be) ; together with the costs of this action ; and for such further or other relief as to the court shall seem meet.

Signature.....

(Of plaintiffs registered attorney where he appears by one ; if otherwise, plaintiff must sign, and an officer authorized by the court in that behalf must verify the signature.)

* Forms No. 12 and 13 are omitted consequent on the repeal of sections 31 and 32 by Law No. 20 of 1977.

CIVIL PROCEDURE CODE

[Cap. 105

No. 15

FORMAL PARTS OF THE ANSWER AND REPLICATION

[Sections 75 and 79.]

(Title and number of action, names, descriptions and addresses of parties, as in the plaint.)

The day of..... 19

The answer of the above-named defendant (or defendants, *and if the case is so add:* appearing by G. H: his registered attorney) states as follows :—

(Here set forth the defence or defences and claim in reconvention, if any, separately stating and numbering them; and where defendant prays for a declaration of title to land, conclude) And the defendant prays for judgment for the said premises.

Signature..... (as in Plaint.)

(For Replication, follow this form as near as may be.)

No. 16

FORM OF SUMMONS

[Section 55(1).] [§125, Law 20 of 1977.]

(Title.)

To the above-named defendant (or defendants).

Whereas the above-named plaintiff has instituted an action against you in this court for *(state particulars of claim)*, you are hereby required to file in court your answer, if any, to the plaint herewith annexed on or before the day of 19 *and you are* hereby required to take notice that in default of your filing answer on or before the said date the action will be proceeded with and heard *exparte*.

You are further required, if you do not appear by a registered attorney, to file a memorandum stating an address at which all legal notices may be served.

By order of court,

.....
Registrar.

Note.—If you desire to receive notice of the date on which the above action will be called in open court, in order to fix the date of trial, you are required by section 80 to furnish to the Registrar of this Court a registered address and tender stamps to the requisite value to cover postage by registered post.

.....
Sgd: Registrar.

This day of..... 19

No. 16A

MEMORANDUM OF REGISTERED ADDRESS

[Section 55 (2).] [5125 Law 20 of 1977.]

In the District Court/ Primary Court of

Case No.

On this day of 19

I, being the defendant in the above action hereby furnish my postal address for service of the notice under section 80 of this Code and all other legal documents required to be served on me under this Code. I undertake to inform the Registrar of any change of address.

I also tender stamps to the value of Rs. to cover cost of service of the notice under section 80 on me by registered post.

Signature:.....
Defendant.

Address:

Signature:.....
Defendant.

Cap. 105]

CIVIL PROCEDURE CODE

No. 17

[Sections 55 and 364.]

FORM OF PRECEPT TO FISCAL TO SERVE SUMMONS

(Title.)

To the Fiscal of the..... Court of.....

Serve forthwith the summons in the above-named action, which, with duplicates, is herewith transmitted to you, upon each of the persons to whom it is directed, and leave with or tender to each such person a duplicate summons and one of the copies of (or concise statements presented with) the plaint, which accompany the summons. And certify to this court on or before the day of 19, in what manner you have executed this precept, returning the summons attached to your certificate as an exhibit.

By order of court,

(Signed), Registrar.

The.....day of.....19....

No. 18

[Sections 69, 70 and 71.] [§125, Law 20 of 1977.]

FORM OF SUMMONS FOR SERVICE OUT OF SRI LANKA

(Title.)

To the above-named defendant (or defendants).

Whereas the above-named plaintiff has instituted an action against you in this court for (stale particulars of claim) you are hereby required to file in court your answer, if any, to the plaint herewith annexed on or before the day of 19 and you are hereby required to take notice that in default of your filing answer on or before the said date, the action will be proceeded with and heard ex pane.

You are further required, if you do not appear by a registered attorney, to file a memorandum stating an address at which all legal notices may be served.

By order of court,

..... Registrar.

Note.—If you desire to receive notice of the date on which the above action will be called in open court, in order to fix the date of trial, you are required by section 80 to furnish to the Registrar of this Court a registered address and tender stamps to the requisite value to cover postage by registered post.

Sgd:..... Registrar.

This day of..... 19....

No. 19

[Section 703.]

SUMMONS IN AN ACTION OF SUMMARY PROCEDURE ON A LIQUID CLAIM

(Title.)

To the above-named defendant (or defendants).

Whereas the above-named plaintiff has instituted an action against you in this court under Chapter LIII of the Civil Procedure Code, for rupees principal and interest (or rupees, balance of principal and interest) due to him as payee (or indorsee) of a bill of exchange (or as the case may be : state the instrument on which the claim is made), of which a copy is hereto annexed :

You are hereby summoned to obtain leave from the court within days from the service hereof, inclusive of the day of such service, to appear and defend the action, and within such time to cause an appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after expiration of

such days to obtain a decree for any sum not exceeding rupees (*name the sum claimed*) together with interest thereon at the rate specified in the said (*instrument*) to the date of payment in full, and the sum of rupees for costs.

Leave to appear may be obtained on an application to the court supported by affidavit showing that there is a defence to the action on the merits, or that it is reasonable that you should be allowed to appear in the action.

(*Here copy the instrument sued on, and where it is a negotiable instrument and carries endorsements, with the endorsements.*)

By order of court.

(Signed)..... Registrar.

The day of 19

No. 2

FORMS OF CONCISE STATEMENTS TO BE PRESENTED WITH PLAINT

[Section 49.]

The claim of the plaintiff (*and where the plaintiff sues in a representative capacity, add: suing as administrator of the estate and effects of A. B., deceased, or as the case may be*) is rupees for money lent (and interest, *or as the case may be, showing the nature of the claim*). (*Where defendant is sued in a representative capacity. state if, as*) The defendant, C. D. is sued as the administrator of the estate and effects of X. Y., deceased (and the defendants E. F. and G. H., as his co-heirs-at-law, *or as the case may be*).

(*Add, where the claim is for a debt or liquidated demand*) And rupees for costs : and if the amount claimed be paid to the plaintiff or his registered attorney within days (or if the summons is to be served out of the jurisdiction, insert the time for appearance limited in the order) from the service hereof, further proceedings will be stayed.

Add. when necessary—

- And for an injunction.
- And for mesne profits.
- And for an account of rent, or arrears of rent.
- And for breach of covenant for repairs (*or as the case may be*).

The following may be used in appropriate cases:

Partnership.

The plaintiffs claim is to have an account taken of the partnership dealings between the plaintiff and defendant (under articles of partnership dated the day of), and to have the affairs of the partnership wound up.

By Mortgagee.

The plaintiffs claim is to have an account taken of what is due to him for principal, interest, and costs on a mortgage dated the day of made between (*parties*), or by deposit of title deeds, and that the property mortgaged may be realized by sale.

By Mortgagor.

The plaintiffs claim is to have an account taken of what, if anything, is due on a mortgage dated and made between (*parties*), and to redeem the property comprised therein.

Raising Portions.

The plaintiffs claim is that the sum of rupees, which by a deed of settlement dated was provided for the portions of the younger children of may be raised.

Execution of Trust.

The plaintiffs claim is to have the trusts of an indenture dated and made between (*parties*), carried into execution.

Cancellation or Rectification.

The plaintiffs claim is to have a deed dated and made between (parties), set aside or rectified.

Specific Performance.

The plaintiffs claim is for specific performance of an agreement dated day of for the sale by the plaintiff to the defendant of certain hereditaments a t

No. 25

FORM OF INTERROGATORIES

[Sections 94 et seq.]

(Title.)

Interrogatories on behalf of the above-named plaintiff (or as the case may be) for the examination of the above-named defendant (or as the case may be):

- 1.—Did not, &c.
2.—Has not, &c.

The defendant A. B. is required to answer the interrogatories numbered

The defendant C. D. is required to answer the interrogatories numbered

(Signed) Registered Attorney
for Plaintiff.

No. 26

FORM OF ANSWER TO INTERROGATORIES

[Section 99.]

(Title.)

The answer of the above-named defendant, A. B. (or as the case may be), to the interrogatories for his examination delivered on behalf of the above-named plaintiff (or as the case may be):

In answer to the said interrogatories, I, the above-named defendant, A. B., make oath (or affirmation) and say as follows:

- 1, 2, 3, 4.—(Set forth answers to the interrogatories in paragraphs numbered consecutively.)
5.—I object to answer the interrogatories numbered on the ground that (stale ground of objection, verifying the same).

Sworn (or affirmed) this day of 19 , before me, &c.

No. 27

FORM OF NOTICE TO ADMIT GENUINENESS OF DOCUMENTS

[Section 101.]

(Title.)

To (set out names and places of residence of persons to be served with the notice).

Take notice that the above-named plaintiff (or as the case may be) in this action proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the defendant (as the case may be) or his registered attorney at , on between the hours of and : and the defendant (or as before) is hereby required, within forty-eight hours from the

* Forms Nos. 21 to 24 are omitted as being not applicable to sections 84 to 86, replaced by Law No. 20 of 1977.

hour last mentioned, to admit that such of the said documents as are specified to be originals were respectively written, signed, or executed as they purport respectively to have been, and that such as are specified as copies are true copies.

By order of court,

(Signed)..... Registrar.

The.....of..... 19

(Here annex Schedule of Documents.)

No. 28

FORM OF ADMISSION OF GENUINENESS OF DOCUMENTS

[Section 101.]

(Title.)

To (names, &c. of persons to be served).

I (or We, if the case is so), saving all just exceptions as to the admissibility thereof in evidence, hereby admit that the document mentioned in the notice of the day of 19, issued from this court at the instance of (as the case may be. or, if any are not admitted, that such of the documents mentioned (as above) as are included in the schedule hereto annexed) were respectively written (&c.. as in notice).

(Signed)..... (By party or registered attorney.)

The..... day of..... 19....

No. 29

FORM OF NOTICE TO PRODUCE DOCUMENTS FOR INSPECTION

[Section 104.]

(Title.)

To (set out names and place of residence of party to be served).

Take notice that the above-named plaintiff (or as the case may be) requires you to produce for inspection by him or his registered attorney the following documents referred to in (stale as the case is); that is to say (describe documents), and to permit such party or registered attorney to take copies thereof.

By order of court,

(Signed)..... Registrar.

The..... day of..... 19...

No. 36

FORMS OF APPOINTMENT. AND OF REFUSAL, TO INSPECT DOCUMENTS

[Sections 104 and 105.]

(Title.)

To (name, &c., of person to be served).

Take notice that the plaintiff (or as the case may be) can inspect the documents mentioned in the notice of the day of 19, issued from this court at his instance, except (mention any document of which inspection is refused), at my office (or as the case may be) on the day of 19, at o'clock of the noon. The defendant (or as the case may be) objects to produce the documents hereinbefore excepted, on the ground (stale the ground).

(Signed)..... (By party or registered attorney.)

The day of..... 19

CIVIL PROCEDURE CODE

No. 31

[Section 105.]

FORM OF NOTICE OF OBJECTION TO GIVE INSPECTION

To (as in last form).

Take notice that the defendant (or 05 may be) objects to give the plaintiff (or as may be) inspection of the documents mentioned in the notice (as in last form), on the ground (state the ground).

The , day of 19. (Signed as before.)

No. 32

[Sections 121-126.3

FORM OF SUMMONS TO WITNESS

(Title.)

To (name, description, and address a/witness).

You are hereby summoned to appear in this court in person on the ... day of ... 19 ... at ... o'clock in the forenoon, to give evidence on behalf of the plaintiff (or defendant) in the above-mentioned action, and to produce (here describe with convenient certainty any document the production of which is required: if the summons is only to give evidence, or only to produce a document, it must be so expressed). And you are not to depart thence until you have been examined (or have produced the document) and the court has risen, or unless you have obtained the leave of the court.

By order of court,

(Signed)....., Registrar.

ine..... day of..... 19....

NOTE, 1.—If you are summoned only to produce a document and not to give evidence, you shall be deemed to have complied with (he lummoni if you cause the documni 10 be produced in this court on (he day and al the hour within-named.

NOTE, 2.—If you arc detained beyond the day within-named, » SUB of . rupees will be tendered to youa for efich day's attendance beyond the day specified,

(NOTE, 3.—No money having been paid to the court to cover the costs of your attendance, and DO security having been given for the payment thereof, your attendance on this summons 15 not obligatory.)

(NOTE, 4.—Money hu been paid into court (or security bax been given, (01 the COM may be) for the co(U of your attendance-)

No. 33

FORMS OF PLAINTS

PLAINTS IN ORDINARY CASES

(i) For Money Lent

(Title.)

1.—That on the ... day of ... 19, at ... plaintiff lent the defendant ... rupees repayable on demand (or on the ... day of ...)

2.—That the defendant has not paid the same, except p t ... rupees paid on the day of ... 19

(If the plaintiff claims exemption from any law of limitation, say:

3.—The plaintiff was a minor (or insane) from the ... day o l....., tffl the..... day o f.....)

4.—The plaintiff prays judgment for ... rupees, with interest a t..... per centum from the ... day of, 19 -..

(ii) For Money received to Plaintiffs use

(Title.)

1.—That on the day of 19 at the defendant received rupees (or a cheque on the ; Bank for rupees) from one E. F. for the use of the plaintiff.

2.—That the defendant has not paid (or delivered) the same accordingly.

3.—The plaintiff prays judgment for rupees, with interest at per centum from the day of 19

(iii) For Price of Goods sold by a Factor

(Title.)

1.—That on the day of 19 at he and E. F., since deceased, delivered to the defendant (one thousand barrels of/low, five hundred bushels of rice, or as the case may be) for sale upon commission.

2.—That on the day of, 19 (or, on some day unknown to the plaintiff, before the day of, 19), the defendant sold the said merchandise for rupees.

3.—That the commission and expenses of the defendant thereon amount to rupees.

4.—That on the day of 19, the plaintiff demanded from the defendant the proceeds of the said merchandise.

5.—That he has not paid the same.

(Demand of judgment.)

(iv) For Money received by Defendant through the Plaintiff's Mistake of Fact

(Title.)

1.—That on the day of, 19, at, the plaintiff agreed to buy and the defendant agreed to sell bars of silver at cents per ounce of fine silver.

2.—That the plaintiff procured the said bars to be assayed by one E. F., who was paid by the defendant for such assay and that the said E. F., declared each of the said bars to contain 1,500 ounces of fine silver, and that the plaintiff accordingly paid the defendant rupees therefor.

3.—That each of the said bars contain only 1,200 ounces of fine silver.

4.—That the defendant has not repaid the sum so overpaid.

(Demand of judgment.)

(v) For Money paid to a Third Party at the Defendant's Request

(Title.)

1.—That on the day of 19, at, at the request (or by the authority) of the defendant, the plaintiff paid to one E. F. rupees.

2.—That, in consideration thereof, the defendant promised (or became bound) to pay the same to the plaintiff on demand (or as the case may be).

3.—That (on the day of, 19) the plaintiff demanded payment of the same from the defendant, but he has not paid the same.

(Demand of judgment.)

CIVIL PROCEDURE CODE

(vi) For Goods sold at a Fixed Price and delivered

(Title.)

1.—That on the day of 19 , at E. F. of deceased, sold and delivered to the defendant (one hundred barrels of flour, or the goods mentioned in the schedule hereto annexed, or sundry goods.)

2.—That the defendant promised to pay rupees for the said goods on delivery (or on the day of some day before the plaint was filed).

3.—That he has not paid the same.

4.—That the said E. F. in his lifetime made his will, whereby he appointed the plaintiff executor thereof.

5.—That on the day of 19 the said E. F. died.

6.—That on the day of probate of the said will was granted to the plaintiff by the District Court of

7.—The plaintiff as executor as aforesaid (demand of judgment).

(NOTE — If a day was fixed for payment it should be stated as furnishing a date for the commencement of interest.)

(vii) For Goods sold at a Reasonable Price and delivered

(Title.)

1.—That on the day of 19 at plaintiff sold and delivered to the defendant (sundry articles of house furniture), but no express agreement was made as to the price.

2.—That the same were reasonably worth rupees.

3.—That the defendant has not paid the same.

(Demand of judgment.)

(NOTE — The law implies a promise to pay so much as the goods are reasonably worth.)

(viii) For Goods delivered to a Third Party at Defendant's Request, at a Fixed Price

(Title.)

1.—That on the day of 19 at plaintiff sold to the defendant (one hundred barrels of flour), and at the request of the defendant, delivered the same to one E. F.

2.—That the defendant promised to pay the plaintiff rupees therefor.

3.—That he has not paid the same.

(Demand of judgment.)

(ix) For Necessaries furnished to the Family of Defendant's Testator, without his Express Request, at a Reasonable Price

(Title.)

1.—That on the day of 19 at plaintiff furnished to (Mary Jones), the wife of (James Jones), deceased, at her request sundry articles of (food and clothing), but no express agreement was made as to the price.

- 2.—That the same were necessary for her.
- 3.—That the same were reasonably worth rupees.
- 4.—That the said (*James Jones*) refused to pay the same.
- 5.—That the defendant is the executor of the last will of the said (*James Jones*).

(Demand of judgment.)

(x) For Goods sold at a Fixed Price

(Title.)

- 1.—That on the day of..... 19 at..... the plaintiff sold to *E. F.* of..... deceased, (*all the crops then growing on his farm in.....*).
- 2.—That the said *E. F.* promised to pay the plaintiff..... rupees for the same.
- 3.—That he did not pay the same.
- 4.—That the defendant is administrator of the estate of the said *E. F.*

(Demand of judgment.)

(xi) For Goods sold at a Reasonable Price

(Title.)

- 1.—That on the day of 19 , at..... *E. F.* of , sold to the defendant (*all the fruit growing in his orchard in*), but no express agreement was made as to the price.
- 2.—That the same was reasonably worth rupees.
- 3.—That the defendant has not paid the same.
- 4.—That on the * . day of the District Court of..... duty adjudged the said *E. F.* to be of unsound mind and incapable of managing his affairs, and appointed the plaintiff manager of his estate.
- 5.—The plaintiff as manager as aforesaid (*demand of judgment*).

(xii) For Goods made at Defendant's Request, and not accepted

(Title.)

- 1.—That on the day of..... 19....., at....., *E. F.* of..., agreed with the plaintiff that the plaintiff should make for him (*six tables and fifty chairs*), and that the said *E. F.* should pay for the same upon delivery thereof rupees.
- 2.—That the plaintiff made the said goods, and on the day of..... 19, offered to deliver the same to the said *E. F.* and has ever since been ready and willing so to do.
- 3.—That the said *E. F.* has not accepted the said goods or paid for the same.
- 4.—That on the day of..... 19 the District Court of..... duly adjudged the said *E. F.* to be of unsound mind and incapable of managing his affairs, and appointed the defendant manager of his estate.

5.—The plaintiff prays Judgment for rupees, with interest from the day of at the rate of *per centum* per annum, to be paid out of the estate of the said *E. F. la* the hands of the defendant.

(xiii) For Deficiency upon a Resale (Goods sold at Auction)

(rule.)

1.—That on the day of 19, a t..... plaintiff put up at auction sundry (*articles of merchandise*), subject to the condition that all goods not paid for and removed by the purchaser thereof within (*ten days*) after the sale should be resold by auction on his account, of which condition the defendant had notice.

2.—That the defendant purchased (*one crate of crockery*) at the said auction at the price of..... rupees.

3.—That the plaintiff was ready and willing to deliver the same to the defendant on the said day and for (*ten days*) thereafter, of which the defendant had notice.

4.—That the defendant did not take away the said goods purchased by him, nor pay therefor, within (*ten days*) after the sale, nor afterwards.

5.—That on the day of 19 at..... the plaintiff resold the said (*crate of crockery*), on account of the defendant, by public auction for rupees.

6.—That the expenses attended upon such resale amounted to rupees.

7.—That the defendant has not paid the deficiency thus arising, amounting to rupees.

(Demand of judgment.)

(xiv) For the Purchase Money of Lands conveyed

(Title.)

1.—That on the day of 19 at..... the plaintiff sold (and conveyed) to the defendant (the house and compound No., in the city of *or* a farm known as in *or* a piece of land lying, &c.).

2.—That the defendant promised to pay the plaintiff rupees for the said (house and compound, *or* farm, *or* land).

3.—That he has not paid the same.

(Demand of judgment.)

(xv) For the Purchase Money of Immovable Property contracted to be sold. but not conveyed

(Title.)

1.—That on the day of 19....., a t..... the plaintiff and defendant entered into a notarial agreement, a copy of which is hereto annexed, by which they mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff (the house No. in the town of *or* acres of land in bounded)for rupees.

2.—That on the day of..... 19..... at..... the plaintiff tendered (*or* was ready and willing, and offered to execute) a sufficient instrument of conveyance of the said property to the defendant, on payment of the said sum, and still is ready and willing to execute the same.

3.—That the defendant has not paid the said sum.

(Demand of judgment.)

(ivi) For Services at a Fixed Price

(Title.)

1.—That on the day of..... 19at....., the defendant
(hired plaintiff as a clerk, at the salary of. rupees per year).

2.—That from the (said day) until the..... day of..... 19.....the plaintiff
served the defendant as his *(clerk)*.

3.—That the defendant has not paid the salary.

(Demand of judgment.)

(xvii) For Services at a Reasonable Price

(Title.)

1.—That between the day of..... 19, and the day of
..... 19 at plaintiff *(executed sundry drawings, designs, and diagrams)*
for the defendant at his request; but no express agreement was made as to the sum to be paid for such services.

2.—That the said services were reasonably worth..... rupees.

3.—That the defendant has not paid the same.

(Demand of judgment.)

(xviii) For Services and Materials at a Fixed Price

(Title.)

1.—That on the day of 19, at..... plaintiff
(furnished the paper for and printed one thousand copies of a book called.....) for the defendant
at his request (and delivered the same to him).

2.—That the defendant promised to pay rupees therefor.

3.—That he has not paid the same.

(Demand of judgment.)

(xix) For Services and Materials at a Reasonable Price

(Title.)

1.—That on the day of..... 19 at....., plaintiff built a
house (known as No. in), and furnished the materials therefor, for the
defendant at his request, but no express agreement was made as to the price to be paid for such work and
materials.

2.—That the said work and materials were reasonably worth..... rupees.

3.—That the defendant has not paid the same.

(Demand of judgment.)

(xx) For Rent reserved in a Lease

(Title.)

1.—That on the day of..... 19.....,at..... the defendant entered into a contract with the plaintiff, under their hands, a copy of which is hereto annexed (or state the substance of the contract).

2.—That the defendant has not paid the rent of the (month) ending on the day of..... 19 amounting to rupees.

(Demand of judgment.)

Another Form

1.—That the plaintiff let to the defendant a house No..... for seven years, to hold from the day of..... 19, at..... rupees a year, payable quarterly.

2.—That of such rent..... quarters are due and unpaid.

(Demand of judgment.)

(xxi) For Use and Occupation at a Fixed Rent

(Title.)

1.—That on the day of 19 at..... the defendant hired from the plaintiff (the house No. street), at the rent of rupees, payable on the first day of.....

2.—That the defendant occupied the said premises from the day of 19 to the day of 19

3.—That the defendant has not paid rupees, being the part of the said rent due on the first day of..... 19.....

(Demand of judgment.)

(xxii) For Use and Occupation at a Reasonable Rent

(Title.)

1.—That the defendant occupied (the house No..... street) by permission of the said X. Y: deceased, from the day of 19, until the day of..... 19 and no agreement was made as to payment for the use of the said premises.

2.—That the use of the said premises for the said period was reasonably worth rupees.

3.—That the defendant has not paid the same.

4.—That the said X. V., in his lifetime made his will, whereby he appointed the plaintiff executor thereof.

5.—That on the day of..... 19, the said X. Y. died.

6.—That on the day of probate of the said will was granted to the plaintiff by the District Court of.....

7.—The plaintiff as such executor as aforesaid prays judgment for..... rupees.

(xxiii) For Board and Lodging

(Title.)

1.—That from the day of 19, until the day of 19 the defendant occupied certain rooms in the house (No. street), by permission of the plaintiff, and was furnished by the plaintiff, at his request, with meat, drink, attendance, and other necessaries.

2.—That, in consideration thereof, the defendant promised to pay (*or* that no agreement was made as to payment for such meat, drink, attendance, or necessaries, but the same were reasonably worth) the sum of rupees.

3.—That the defendant has not paid the same.

(Demand of judgment.)

(xxiv) For Freight of Goods

(Title.)

1.—That on the day of 19, at plaintiff transported in (his barge, or *otherwise*) (*one thousand barrels of flow*, or sundry goods), from to at the request of the defendant.

2.—That the defendant promised to pay the plaintiff the sum of (*one rupee per barrel*) as freight thereon (*or*, that no agreement was made as to payment for such transportation, but such transportation was reasonably worth rupees).

3.—That the defendant has not paid the same.

(Demand of judgment.)

(xxv) For Passage Money

(Title.)

1.—That on the day of 19, plaintiff conveyed the defendant (*in his ship called the*), from to at his request.

2.—That the defendant promised to pay the plaintiff rupees therefor (*or* that no agreement was made as to the said passage, but the said passage was reasonably worth rupees).

3.—That the defendant has not paid the same.

(Demand of judgment.)

(xxvi) On an Award

(Title.)

I.—That on the day of 19, at the plaintiff and defendant having a controversy between them, concerning (*a demand of the plaintiff for the price of ten barrels of oil, which [he defendant refused to pay]*), agreed to submit the same to the award of *E. F.* and *G. H.*, as arbitrators (*or* entered into an agreement, a copy of which is hereto annexed).

2.—That on the day of 19 at the said arbitrators awarded that the defendant should (pay the plaintiff..... rupees).

3.—That the defendant has not paid the same.

(Demand of judgment.)

NOTE.—This will apply where the agreement to refer is not filed in Court.

(xxvii) On a Foreign Judgment

(Title.)

1.—That on the day of 19 at in the State (or Kingdom) of the Court of that State (or Kingdom), in a suit therein pending between the plaintiff and the defendant, duly adjudged that the defendant should pay to the plaintiff.... rupees, with interest from the said date.

2.—That the defendant has not paid the same.

(Demand of judgment.)

PLAINTS UPON INSTRUMENTS FOR THE PAYMENT OF MONEY ONLY

(xxviii) On an Annuity Bond

(Title.)

1.—That on the day of 19..... at the defendant by his bond became bound to the plaintiff in the sum of rupees to be paid by the defendant to the plaintiff, subject to a condition that if the defendant should pay to the plaintiff rupees half-yearly on the day of and the day of in every year during the life of the plaintiff, the said bond should be void.

2.—That afterwards, on the day of 19, the sum of rupees for of the said half-yearly payments of the said annuity became due to the plaintiff, and is still unpaid.

(Demand of judgment.)

(xxix) Payee against Maker

(Title.)

1.—That on the day of 19 at the defendant, by his promissory note, now overdue, promised to pay to the plaintiff..... rupees (days) after date.

2.—That he has not paid the same (except..... rupees, paid on the day of.... 19.....).

(Demand of judgment.)

(NOTE.—Where the note is payable after notice for paragraphs 1 and 2 substitute—)

1.—That on the day of 19..... at the defendant, by his promissory note, promised to pay to the plaintiff..... rupees months after notice.

2.—That notice was afterwards given on the day of by the plaintiff to the defendant to pay the same months after the said notice.

3.—That the said time for payment has elapsed, but the defendant has not paid the same.

(Where the note is payable at a particular place, say—)

1.—That on the day of 19 at the defendant, by his promissory note, now overdue, promised to pay to the plaintiff (*at Messrs. A. A Co. 's, Colombo*) rupees months after date.

2.—That the said note was duly presented for payment (*at Messrs. A. A Co. 's*) aforesaid, but has not been paid.

(xxx) first Indorsee against Maker

(Title.)

1.—That on the day of 19....., at the defendant, by his promissory note, now overdue, promised to pay to the order of *E. F.* (or to *E. F.*, or order) rupees (..... days after date).

2.—That the said *E. F.* indorsed-the same to the plaintiff.

3.—That the defendant has not paid the same.

(Demand of judgment.)

(xxxi) Subsequent Indorsee against Maker

(Title.)

1.—(As in the last preceding/arm.)

2.—That the same was, by the indorsement of the said *E. F. and of G. H. and I. J. (or* and others), transferred to the plaintiff.

3.—That the defendant has not paid the same.

(Demand of judgment.)

(xxxii) First Indorsee against First Indorser.

(Title.)

1.—That *E. F.*, on the day of 19 at by his promissory note, now overdue, promised to pay to the defendant or order rupees months after date.

2.—That the defendant indorsed the same to the plaintiff.

3.—That on the day of 19 the same was duly presented for payment, but was not paid (or *state facts excusing want of presentment*).

4.—That the defendant had notice thereof.

5.—That he has not paid the same.

(Demand of judgment.)

(xxxiii) Subsequent Indorsee against First Indorser, the Indorsement being Special

(Title.)

1.—That the defendant indorsed to one E. F. a promissory note, now overdue, made (or purporting to have been made) by one G. H., on the day of 19 at to the order of the defendant, for the sum of rupees (payable days after date).

2.—That the same was, by the indorsement of the said E. F. (and others), transferred to the plaintiff (or that the said indorsed the same to the plaintiff).

3. 4 and 5.—(Same as 3. 4. and 5 of the preceding form.) .

(Demand of judgment.)

(xxxiv) Subsequent Indorsee against his Immediate Indorser

(Title.)

1.—That the defendant indorsed to the plaintiff a promissory note, now overdue, made (or purporting to have been made) by one E. F., on the day of 19 at to the order of one G. H. for the sum of rupees (payable days after date), and indorsed by the said G. H. to the defendant.

2. 3, and 4.—(Same as in 3. 4, and 5 of last preceding form.)

(Demand of judgment.)

(xxxv) Subsequent Indorsee against Intermediate Indorser

(Title.)

1.—That a promissory note, now overdue, made (or purporting to have been made) by one E. F., on the day of 19 at to the order of one G. H., for the sum of rupees (payable days after date) and indorsed by the said G. H. to the defendant was by the indorsement of the defendant (and others) transferred to the plaintiff.

2,3, and 4.—(As in No. xxxiii.)

(Demand of judgment.)

(xxxvi) Subsequent Indorsee against Maker and First and Second Indorsers

(Title.)

1.—That on the day of 19 at the defendant, C. D. by his promissory note, now overdue, promised to pay to the order of the defendant, E. F. rupees (. months after date).

2.—That the said E. F. indorsed the same to the defendant, G. H. who indorsed it to the plaintiff.

3.—That on the day of 19 the same was presented (or slate facts excusing want of presentment) to the said C. D. for payment, but was not paid.

4.—That the said E. F. and G.H. had notice thereof.

5.—That they have not paid the same.

(Demand of judgment.)

(xxxvii) Drawer against Acceptor

(Title.)

1.—That on the day of 19 at..... by his bill of exchange, now overdue, the plaintiff required the defendant to pay to him rupees (..... days after date, *or* sight, thereof).

2.—That the defendant accepted the said bill, (*If the bill is payable at a certain time after sight, the date of acceptance should be stated; otherwise it is not necessary.*)

3.—That he has not paid the same.

4.—That by reason thereof the plaintiff incurred expenses in and about the presenting and noting of the bill, and incidental to the dishonour thereof.

(Demand of judgment.)

(NOTE.—Where the bill is payable to a third party for paragraph 1, 2, 3, say—)

1.—That on, &c., at &c., by his bill of exchange, now overdue, directed to the defendant, the plaintiff required the defendant to pay to *E. F.* or order rupees months after date.

2.—That the plaintiff delivered the said bill to the said *E. F.* on

3.—That the defendant accepted the said bill but did not pay the same, whereupon the same was returned to the plaintiff.

(xxxviii) Payee against Acceptor

(Title.)

1.—That on the day of 19 the defendant accepted a bill of exchange, now overdue, made (*or* purporting to have been made) by one *E. F.*, on the day of 19 at..... requiring the defendant to pay to the plaintiff..... rupees after sight thereof.

2.—That he has not paid the same.

(Demand of judgment.)

(xxxix) First Indorsee against Acceptor

(Title.)

1.—That on the day of 19 the defendant accepted a bill of exchange, now overdue, made (*or* purporting to have been made) by one *E. F.* on the day of 19 at..... requiring the defendant to pay to the order of one *G. H.* rupees..... after sight thereof.

2.—That the said *G. H.* indorsed the same to the plaintiff.

3.—That the defendant has not paid the same.

(Demand of judgment.)

CIVIL PROCEDURE CODE

(xi) Subsequent Indorsee against Acceptor

(Title.)

- 1.—(As in the last preceding form to the end of paragraph 1.)
2.—That by the indorsement of the said G. H. (and others) the same was transferred to the plaintiff.
3.—That the defendant has not paid the same.

(Demand of judgment.)

(xii) Payee against Drawer for Non-acceptance

(Title.)

- 1.- That on the ... day of ... 19 ... at ... the defendant, by his bill ui exchange directed to E. F., required the said E. P. to pay to the plaintiff. ... rupees (... days after sight).
2.—That on the ... day of ... 19 ... the same was duly presented to the said E. F. for acceptance, and was dishonoured.
3.—That the defendant had due notice thereof.
4.—That he has not paid the same.

(Demand of judgment.)

(xii) First Indorsee against First Indorser

(Title.)

- 1.—That the defendant indorsed to the plaintiff a bill of exchange, now overdue, made (or purporting to have been made) by one E. F. on the ... day of ... 19 ... at ... requiring one G.H to pay to the order of the defendant ... rupees ... days after sight (or after date, or at sight) thereof (and accepted by the said G. H. on the ... day of ... 19.....).
2.—That on the ... day of ... 19 ... the same was presented to the said G. H. for payment, and was dishonoured.
3.—That the defendant had due notice thereof.
4.—That he has not paid the same.

(Demand of judgment.)

(xiii) Subsequent Indorsee against First Indorser, the Indorsement being Special

(Title.)

- 1.-That the defendant indorsed to one E. F. a bill of exchange, now overdue, made (or purporting to have been made) by one G. H. on the ... day of ... 19 ... at ... requiring one I, J. to pay to the order of the defendant ... rupees ... days after sight thereof (or otherwise), and accepted by the said I, J. on the ... day of ... 19 (This paragraph may be omitted if noi according to the fact.)
2.—That the same was, by the indorsement of the said E. F. (and others), transferred to the plaintiff.
3.—That on the ... day of ... ,19 ... ,the same was presented to the said I.J. for payment, and was dishonoured.
4.—That the defendant had due notice thereof.
5.—That he has not paid the same.

(Demand of judgment.)

(xiii) Subseffuent Indorsee against his Immediate Indorser

(Title.)

1.—That the defendant indorsed to plaintiff a bill of exchange, now overdue, made (or purporting to have been made) by one *E. F.*, on the day of 19, at..... requiring one *G. H.* to pay to the order of *I. J.* rupees days after sight thereof (or *otherwise*), (accepted by the said *G. H.*) and indorsed by the said *I. J.* to the defendant.

2.—That on the day of..... 19 the same was presented to the said *G. H.* for payment, and was dishonoured.

3.—That the defendant had due notice thereof.

4.—That he has not paid the same.

(Demand of judgment.)

(xiv) Subsequent Indorsee against Intermediate Indorser

(Title.)

1.—That a bill of exchange, now overdue, made (or purporting to have been made) by one *E. F.* on the day of..... 19 at..... requiring one *G. H.* to pay to the order of..... one *I. J.* rupees days after sight thereof (or *otherwise*), accepted by the said *G. H.* and indorsed by the said *I. J.* to the defendant, was, by the indorsement of the defendant (and others), transferred to the plaintiff.

2.—That on the day of..... 19 the same was presented to the said *G. H.* for payment, and was dishonoured.

3.—That the defendant had due notice thereof.

4.—That he has not paid the same.

(Demand of judgment.)

(xivi) Indorsee against Drawer, Acceptor, and Indorser

(Title.)

1.—That on the day of 19, at..... the defendant, *C. D.*, by his bill of exchange, now overdue, directed to the defendant *E. F.*, required the said *E. F.* to pay to the order of the defendant *G. H.* rupees (....., days after sight thereof).

2.—That on the day of..... 19....., the said *E. F.* accepted the same.

3.—That the said *G. H.* indorsed the same to the plaintiff.

4.—That on the day of..... 19 the same was presented to the said *E. F.* for payment, and was dishonoured.

5.—That the other defendants had due notice thereof.

6.—That they have not paid the same.

(Demand of judgment.)

(xivii) Payee against Drawer for Non-acceptance of a Foreign Bill

(Title.)

1.—That on the day of 19 a t the defendant by his bill of exchange, drawn in (Colombo), required one E. F. to pay to the plaintiff in (London) pounds sterling (sixty days) after sight thereof.

2.—That on the day of 19 the same was presented to the said E. F. for acceptance, and was dishonoured, and was thereupon duly protested.

3.—That the defendant had due notice thereof.

4.—That he has not paid the same.

(5.—That the value of pounds sterling, at the time of the service of notice of protest on the defendant was rupees and cents.)

Wherefore the plaintiff demands judgment against the defendant for rupees, with-(six per centum) compensation and interest from the day of 19

(xiviii) Payee against Acceptor

(Title.)

1.—That on the day of 19, at one E. F., by his bill of exchange, now overdue, directed to the defendant, required the defendant to pay to the plaintiff..... rupees after date (or days after sight) thereof.

2.—That on the day of 19 the defendant accepted the said bill.

3.—That he has not paid the same.

(Demand of judgment.)

(xix) On a Marine (Open) Policy, on Vessel lost by Perils of the Sea. &c.

(Title.)

I.—The plaintiff was the owner of (or had an interest in) the ship , at the time of her loss, as hereinafter mentioned.

2.—That on the day of 19 a t the defendants, in consideration of rupees to them paid (or which the plaintiff then promised to pay), executed to him a policy of insurance upon the said ship, a copy of which is hereto annexed (or whereby they promised to pay to the plaintiff, within days after proof of loss and interest, all loss and damage accruing to him by reason of the destruction or injury of the said ship, during her next voyage from to whether by perils of the sea or by fire, or by other causes therein mentioned, not exceeding rupees).

3.—That the said ship while proceeding on the voyage mentioned in the said policy was, on the day of 19 totally lost by the perils of the sea (or otherwise).

4.—That the plaintiff's loss thereby was rupees.

5.—That on the day of 19 he furnished the defendants with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6.—That the defendants have not paid the said loss.

(Demand of judgment.)

(1) On Cargo lost by Fire (Valued Policy)

(Title.)

1.—That plaintiff was the owner of (or had an interest in) (one hundred bales of cotton) on board the ship at the time of her loss as hereinafter mentioned.

2.—That on the day of 19 at the defendants, in consideration of rupees which the plaintiff then paid (or promised to pay), executed to him a policy of insurance upon the said goods, a copy of which is hereto annexed (or whereby they promised to pay to the plaintiff rupees in case of the total loss, by fire or other causes mentioned, of the said goods, before their landing at ; or, in case of partial loss, such damages as the plaintiff might sustain thereby, provided the same should not exceed per centum of the whole value of the goods).

3.—That on the day of 19 at while proceeding on the voyage mentioned in the said policy, the said goods were totally destroyed by fire (or as the case maybe).

4, 5, and 6.—(As in paragraphs 4, 5, and 6 of the last preceding form)

(Demand of judgment.)

(ii) On Freight (Valued Policy)

(rule.)

1.—That the plaintiff had an interest in the freight to be earned by the ship on her voyage from to at the time of her loss as hereinafter mentioned, and that a large quantity of goods was shipped upon freight in her at that time.

2.—That on the day of 19 at the defendant, in consideration of rupees to him paid, executed to the plaintiff a policy of insurance upon the said freight, a copy of which is hereunto annexed (or slate its tenor as before).

3.—That the said ship, while proceeding upon the voyage mentioned in the said policy, was, on the day of 19 totally lost by (the perils of the sea).

4.—That the plaintiff has not received any freight from the said ship, nor did she earn any on the said voyage by reason of her loss as aforesaid.

5. and 6.—(as inform No. xlix.)

(Demand of judgment.)

(lii) For a Loss by General Average

(Title.)

1.—That the plaintiff was the owner of (or had an interest in) (one hundred bales of cotton) shipped on board a vessel called the V. Z., to at the time of the loss hereafter mentioned.

2.—That on the day of 19 at in consideration of rupees (which the plaintiff then promised to pay), the defendant executed to the plaintiff a policy of insurance upon his said goods, a copy of which is hereto annexed (or slate its tenor as before).

3.—That on the day of 19 while proceeding on the voyage mentioned in the said policy, the said vessel was so endangered by perils of the sea that the master and crew thereof were compelled to, and did, cast into the sea a large part of her rigging and furniture.

4.—That the plaintiff was, by reason thereof, compelled to, and did, pay a general average loss of rupees.

5.—That on the day of 19 he furnished the defendant with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6.—The defendant has not paid the said loss.

(Demand of judgment.)

(liii) For a Particular Average Loss

(Title.)

1 and 2.—(As in the last preceding form.)

3.—That on the day of 19 while on the high seas, the sea-water broke into the said ship, and damaged the said (cotton) to the amount of rupees.

4 and 5.—(As in paragraphs 5 and 6 of the last preceding form.)

(Demand of judgment.)

(liv) On a Fire Insurance Policy

(Title.)

1.—That plaintiff (was the owner of, or) had an interest in a (dwelling house, know as No. street, in the city of), at the time of its destruction (or injury) by fire as hereinafter mentioned.

2.—That on the day of 19 at in consideration of rupees (to them paid), the defendants executed to the plaintiff a policy of insurance on the said (premises), a copy of which is hereunto annexed (or state Us tenor).

3.—That on the day of 19 the said (dwelling house) was totally destroyed (or greatly damaged) by fire.

4.—That the plaintiffs loss thereby was rupees.

5.—That on the day of 19 he furnished the defendants with proof of his said loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6.—The the defendants have not paid the said loss.

(Demand of judgment.)

(lv) Against Surety for Payment of Rent

(Title.)

1.—That on the day of 19 at one E. F. hired from the plaintiff, for the term of years, the (house No. Street) at the annual rent of rupees, payable (monthly).

2.—That (at the same time and place) the defendant agreed, in consideration of the letting of the said premises to the said E. F., to guarantee the punctual payment of the said rent.

3.—That the rent aforesaid for the month of 19 amounting to rupees, has not been paid.

(If by the terms of the agreement notice is required to be given to the surety, add—)

4.—That on the day of 19 the plaintiff gave notice to the defendant of the non-payment of the said rent, and demanded payment thereof.

5.—That he has not paid the same.

(Demand of judgment.)

PLAINTS FOR COMPENSATION FOR BREACH OF CONTRACT

(Ivi) For Breach of Agreement to convey Land

(Title.)

1.—That on the day of 19 at the plaintiff and defendant entered into a notarial agreement, of which a copy is hereto annexed, by which the defendant agreed with the plaintiff that, in consideration of a deposit of rupees then paid, and of the further sum of (ten thousand) rupees payable as hereinafter mentioned, he would, on the day of 19 at execute to the plaintiff a sufficient conveyance of (the house No. street, in the city of) free from all encumbrances ; and the plaintiff agreed to pay (ten thousand) rupees for the same on delivery thereof.

2.—That on the day of 19 the plaintiff demanded the conveyance of the said property from the defendant and tendered rupees to the defendant (or, that all conditions were fulfilled, and all things happened and all times elapsed, necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part).

3.—That the defendant has not executed any conveyance of the said property to the plaintiff (or that there is a mortgage upon the said property made by to for rupees, registered in the office of on the day of 19 and still unsatisfied or any other defect of title).

4.—That the plaintiff has thereby lost the use of the money paid by him as such deposit as aforesaid and of other moneys provided by him for the completion of the said purchase, and has lost the expenses incurred by him in investigating the title of the defendant and in preparing to perform the agreement on his part, and has incurred expense in endeavouring to procure the performance thereof by the defendant.

5.—The plaintiff prays judgment for rupees compensation.

(Ivii) For Breach of Agreement to purchase Land

(Title.)

1.—That on the day of 19 at the plaintiff and defendant entered into a notarial agreement, of which a copy is hereto annexed, by which they mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff (forty acres of land in the village of for rupees).

2.—That on the day of 19 at the plaintiff, being then the absolute owner of the said property (and the same being free from all encumbrances as was made to appear to the defendant), tendered to the defendant a sufficient instrument of conveyance of the same (or was ready and willing, and offered, to convey the same to the defendant by a sufficient instrument), on the payment by the defendant of the said sum.

3.—That the defendant has not paid the same.

(Demand of judgment.)

(Iviii) Another Form

(Title.)

1.—That by a notarial agreement dated the day of 19 of which a copy is hereto annexed, it was agreed by and between the plaintiff and the defendant that the plaintiff should sell to the defendant, and the defendant should purchase from the plaintiff (a house and land at the price of rupees), upon the terms and conditions following, that is to say :—

(a) That the defendant should pay the plaintiff a deposit of rupees in part of the said purchase-money on the signing of the said agreement, and the remainder on the day of, 19 on which day the said purchase should be completed.

(b) That the plaintiff should deduce and make a good title to the said premises on or before the day of 19 and on payment of the said remainder of the said purchase-money as aforesaid should execute to the defendant a proper conveyance of the said premises, to be prepared at the defendant's expense.

2.—That all conditions were fulfilled, and all things happened and all times elapsed, necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part, yet the defendant did not pay the plaintiff the remainder of the said purchase-money as aforesaid on his part.

3.—That the plaintiff has thereby lost the expense which he incurred in preparing to perform the said agreement on his part, and has been put to expense in endeavouring to procure the performance thereof by the defendant.

(Demand of judgment.)

(lix) For not delivering Goods sold

(Title.)

1.—That on the day of 19 at the plaintiff and defendant mutually agreed that the defendant should deliver (one hundred barrels of flour) to the plaintiff (on the day of 19) and the plaintiff should pay therefor rupees on delivery.

2.—That on the (said) day the plaintiff was ready and willing, and offered to pay the defendant the said sum upon delivery of the said goods.

3.—That the defendant has not delivered the same, whereby the plaintiff has been deprived of the profits which would have accrued to him from such delivery.

(Demand of judgment.)

(lx) For Breach of Contract to employ

(Title.)

1.—That on the day of 19, at the plaintiff and defendant mutually agreed that the plaintiff should serve the defendant as (an accountant, or in the capacity of foreman, or as the case may be), and that the defendant should employ the plaintiff as such, for the term of (one year), and pay him for his services rupees (monthly).

2.—That on the day of 19 the plaintiff entered upon the service of the defendant as aforesaid, and has ever since been, and still is, ready and willing to continue in such service during the remainder of the said year, whereof the defendant always had notice.

3.—That on the day of 19 the defendant wrongfully discharged the plaintiff, and refused to permit him to serve as aforesaid, or to pay him for his services.

(Demand of judgment.)

(lxi) For Breach of Contract to employ, where the Employment never took effect

(Title.)

1.—(As in last preceding form.)

2.—That on the day of 19 at the plaintiff offered to enter upon the service of the defendant, and has ever since been ready and willing so to do.

3.—That the defendant refused to permit the plaintiff to enter upon such service, or to pay him for his services.

(Demand of judgment.)

(Ixii) For Breach of Contract to serve

(Title.)

1.—That on the day of 19 at the plaintiff and defendant mutually agreed that the plaintiff should employ the defendant at an *(annual)* compensation of rupees, and that the defendant should serve the plaintiff as *(on artist)* for the term of *(one year)*.

2.—That the plaintiff has always been ready and willing to perform his part of the said agreement (and on the day of 19 offered so to do).

3.—That the defendant (entered upon) the service of the plaintiff on the above-mentioned day, but afterwards, on the- day of 19 he refused to serve the plaintiff as aforesaid.

(Demand of judgment.)

(Ixiii) Against a Builder for Defective Workmanship

(Title.)

1.—That on the day of, 19 at the plaintiff and defendant entered into an agreement, of which a copy is hereto annexed *(or stale the tenor of the contract)*.

(2.—That the plaintiff duly performed all the conditions of the said agreement on his part.)

3.—That the defendant *(built the house referred to in the said agreement in a bad and unworkmanlike manner)*.

(Demand of judgment.)

(Ixiv) By the Master against the Father or Guardian of an Apprentice

(Title.)

1.—That on the day of 19 at the defendant entered into an agreement, under his hand, a copy of which is hereto annexed *(or stale the tenor of the contract.)*

2.—That after the making of the said agreement the plaintiff received the said *(apprentice)* into his service as such apprentice for the term aforesaid, and has always performed and been ready and willing to perform all things in the said agreement on his part to be performed.

3.—That on the day of 19 the said *(apprentice)* wilfully absented himself from the service of the plaintiff, and continues so to do.

(Demand of judgment.)

(Ixv) By the Apprentice against the Master

(Title.)

1.—That on the day of 19 at the defendant entered into an agreement with the plaintiff and his *(father) E. F;* under their hands, a copy of which is hereto annexed.

2.—That after the making of the said agreement the plaintiff entered into the service of the defendant with him after the manner of an apprentice, to serve for the term mentioned in the said agreement, and has always performed all things in the said agreement contained on his pan to be performed.

3.—That the defendant has not *(instructed the plaintiff in the business of or stale any other breach, such as cruelly, failure to provide sufficient food, or other ill-treatment)*

(Demand of judgment.)

(Ixvi) On a Bond for the Fidelity of a Clerk

(Title.)

1.—That on the day of 19 a t the plaintiff employed one E. F. as a clerk.

2.—That on the day of 19 a t the defendant agreed with the plaintiff that if the said E. F. should not faithfully perform his duties as a clerk to the plaintiff, or should fail to account to the plaintiff for all moneys, evidence's of debt, or other property received by him for the use of the plaintiff, the defendant would pay to the plaintiff whatever loss he might sustain by reason thereof, not exceeding rupees.

(Or, 2.—That at the same time and place the defendant bound himself to the plaintiff by a writing under his hand, in the penal sum of rupees, conditioned that if the said E. F. should faithfully perform his duties as clerk and cashier to the plaintiff, and should justly account to the plaintiff for all moneys, evidences of debt, or other property which should be at any lime held by him in trust for the plaintiff, the same should be void, but not otherwise.)

(Or, 2.—That at the same time and place the defendant executed to the plaintiff a bond, a copy of which is hereto annexed.)

3.—That between the day of 19 and the day of 19 the said E. F. received money and other property amounting to the value of rupees, for the use of the plaintiff, for which he has not accounted to him, and the same still remains due and unpaid.

(Demand of judgment.)

(Ixvii) By Tenant against Landlord, with Special Damage

(Title.)

1.—That on the day of 19 at the defendant, by an instrument in writing, let to the plaintiff (the house No. street), for the term of years, contracting with the plaintiff that he, the plaintiff, and his legal representatives should quietly enjoy possession thereof for the said term.

2.—That all conditions were fulfilled and all things happened necessary to entitle the plaintiff to maintain this suit.

3.—That on the day of during the said term, one E. F., who was the lawful owner of the said house, unlawfully evicted the plaintiff therefrom, and still withholds the possession thereof from him.

4.—That the plaintiff was thereby (prevented from continuing the business of a tailor at the said place, was compelled to expend rupees in moving, and lost the custom of G. H. and I. J. by such removal).

(Demand of judgment.)

(Ixviii) For Breach of Warranty of Movables

(Title.)

1.—That on the day of 19 the defendant, warranted a steam-engine to be in good working order and thereby induced the plaintiff to purchase the same of him, and to pay him rupees therefor.

2.—That the said engine was not then in good working order, whereby the plaintiff incurred expense in having the said engine repaired, and lost the profits which would otherwise have accrued to him while the engine was under repair.

(Demand of judgment.)

(Ixi) On on Agreement of Indemnity

(Title.)

1.—That on the day of 19 at the plaintiff and defendant being partners in trade under the firm of *A. B. & C. D.*, dissolved the said partnership and mutually agreed that the defendant should take and keep all the partnership property, pay all the debts of the firm, and indemnify the plaintiff against all claims that might be made upon him on account of any indebtedness of the said firm.

2.—That the plaintiff duly performed all the conditions of the said agreement on his pan.

3.—That on the day of 19 a judgment was recovered against the plaintiff and defendant by one *E. F.* in the District Court of upon a debt due from the said firm to the said *E. F.*, and on the day of 19 the plaintiff paid rupees (in satisfaction of the same).

4.—That the defendant has not paid the same to plaintiff.

(Demand of judgment.)

(Ixx) By Shipowner against Freighter for not Loading

(Title.)

1.—That on the day of 19 at the plaintiff and defendant entered into an agreement, a copy of which is hereto annexed.

(Or, 1.—That on the day of 19 at the plaintiff and defendant agreed by charter-party that the defendant should deliver to the plaintiffs ship at on the day of 19 five hundred tons of merchandise, which she should carry to and there deliver, on payment of freight; and that the defendant should have days for loading, days for discharge, and days for demurrage if required, at rupees per day.)

2.—That at the time fixed by the said agreement the plaintiff was ready and willing, and offered to receive (the said merchandise, or the merchandise mentioned in the said agreement) from the defendant.

3.—That the period allowed for loading and demurrage has elapsed, but the defendant has not delivered the said merchandise to the said vessel.

Wherefore the plaintiff demands judgment for rupees for demurrage and rupees additional for compensation.

PLAINTS FOR COMPENSATION UPON WRONGS

(Ixxi) For Trespass on Land

(Title.)

1.—That on the day of 19 at the defendant entered upon certain land of the plaintiff, known as (and depastured the same with cattle, trod down the grass, cut the timber, and otherwise injured the same).

(Demand of judgment.)

(Ixxii) For Trespass in entering a Dwelling house

(Title.)

1.—That the defendant entered a dwelling house of the plaintiff called and made a noise and disturbance therein for a long time, and broke open the doors of the said dwelling house, and removed, took, and carried away the fixtures and goods of the plaintiff therein, and disposed of the same to the defendant's own use, and expelled the plaintiff and his family from the possession of the said dwelling house, and kept them so expelled for a long time.

2.—That the plaintiff was thereby prevented from carrying on his business, and incurred expense in procuring another dwelling house for himself and his family.

(Demand of judgment.)

(Ixxiii) For Trespass on Movable

(Title.)

1.—That on the day of 19 at the defendant broke open ten barrels of rum belonging to the plaintiff and emptied their contents into the street (or seized and took the plaintiff's goods, that is to say, iron, rice, and household furniture, or as the case may be, and carried away the same and disposed of them to his own use).

(Or, seized and took the plaintiff's cows and bullocks, and impounded them and kept them impounded for a long time.)

2.—That the plaintiff was thereby deprived of the use of the cows and bullocks during that time, and incurred expenses in feeding them and in getting them restored to him ; and was also prevented from selling them at as he otherwise would have done, and the said cows and bullocks are diminished in value to the plaintiff (otherwise, state the injury according to the facts.)

(Demand of judgment.)

(Ixxiv) For the Conversion of Movable Property

(Title.)

1.—That on the day of 19 plaintiff was in possession of certain goods described in the schedule hereto annexed (or of one thousand barrels of flour).

1.—That on that day at the defendant converted the same to his own use, and wrongfully deprived the plaintiff of the use and possession of the same.

(Demand of judgment.)

(The Schedule)

(Ixxv) Against a Warehouseman for Refusal to deliver goods

(Title.)

1.—That on the day of 19 at the defendant, in consideration of the payment to him of rupees (or rupees per barrel, per month, &c.), agreed to keep in his godown (one hundred barrels of flour), and to deliver the same to the plaintiff on payment of the said sum.

2.—That thereupon the plaintiff deposited with the defendant the said (one hundred barrels of flour).

3.—That on the day of 19 the plaintiff requested the defendant to deliver the said goods and tendered him rupees (or the full amount of storage due thereon), but the defendant refused to deliver the same.

4.—That the plaintiff was thereby prevented from selling the said goods to *E. P.*, and the same are lost to the plaintiff.

(Demand of judgment.)

(Ixxvi) For procuring Property by Fraud

(Title.)

1.—That on the day of 19, a t the defendant, for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that (he, the defendant, was solvent, and worth rupees over all his liabilities).

2.—That the plaintiff was thereby induced to sell (and deliver) to the defendant (dry goods) of the value 01 rupees.

3.—That the said representations were false (*or state the particular falsehoods*), and were then known by the defendant to be so.

4.—That the defendant has not paid for the said goods. (Or, *if the goods were not delivered*, that the plaintiff, in preparing and shipping the said goods and procuring their restoration, expended rupees.)

(Demand of judgment.)

(Ixxvii) For fraudulently procuring Credit to be given to another Person

(Title.)

1.—That on the day of 19 at the defendant represented to the plaintiff that one *E. F.* was solvent and in good credit, and worth rupees over all his liabilities (or that *E. F.* then held a responsible situation, and was in good circumstances, and might safely be trusted with goods on credit).

2.—That the plaintiff was thereby induced to sell to the said *E. F.* (rice) of the value of rupees (on months' credit).

3.—That the said representations were false, and were then known by the defendant to be so, and were made by him with intent to deceive and defraud the plaintiff (or to deceive and injure plaintiff).

4.—That the said *E. F.* did not pay for the said goods at the expiration of the credit aforesaid (or has not paid for the said rice, and the plaintiff has wholly lost the same by reason of the premises).

(Demand of judgment.)-

(Ixxviii) For polluting the Water under the Plaintiffs Land

(Title.)

1.—That he is, and at all the times hereinafter mentioned was, possessed of certain land called and situated in and of a well therein, and of water in the said well, and was entitled to the use and benefit of the said well and of the said water therein, and to have certain springs and streams of water which flowed and ran into the said well to supply the same to flow or run without being fouled or polluted.

2.—That on the day of 19, the defendant wrongfully fouled and polluted the said well and the said water therein and the said springs and streams of water which flowed into the said well.

3.—That by reason of the premises the said water in the said well became impure and unfit for domestic and other necessary purposes, and the plainliff and his family are deprived of the use and benefit of the said well and water.

(Demand of judgment.)

(Ixxix) For carrying on a Noxious Manufacture

(Title.)

- 1.—That the plaintiff is, and at all the times hereinafter mentioned was, possessed of certain lands called
..... situate in
- 2.—That ever since the day of..... 19 the defendant has wrongfully caused to issue from certain smelting works carried on by the defendant large quantities of offensive and unwholesome smoke and other vapours and noxious matter, which spread themselves over and upon the said lands, and corrupted the air, and settled on the surface of the said lands.
- 3.—That thereby the trees, hedges, herbage, and crops of the plaintiff growing on the said lands were damaged and deteriorated in value, and the cattle and livestock of the plaintiff on the said lands became unhealthy, and divers of them were poisoned and died.
- 4.—That by reason of the premises the plaintiff was unable to depasture the said lands with cattle and sheep as he otherwise might have done, and was obliged to remove his cattle, sheep, and farming stock therefrom, and has been prevented from having so beneficial and healthy a use and occupation of the said lands as he otherwise would have had.

(Demand of judgment.)

(Ixxx) For obstructing a Way

(Title.)

- 1.—That the plaintiff is, and at the time hereinafter mentioned was, possessed of (a house in the village of.....
.....).
- 2.—That he was entitled to a right of way from the said (house) over a certain field to a public highway and back again from the said highway over the said field to the said house, for himself and his servants (with vehicles, or on foot), at all times of the year.
- 3.—That on the day of..... 19, defendant wrongfully obstructed the said way, so that the plaintiff could not pass (with vehicles, or on foot, or in any manner) along the said way (and has ever since wrongfully obstructed the same).
- 4.—(State special damage, if any.)

(Demand of judgment.)

Another Form

- 1.—That the defendant wrongfully dug a trench and heaped up earth and stones in the public highway leading from to so as to obstruct it.
- 2.—That thereby the plaintiff, while lawfully passing along the said highway, fell over the said earth and stones (or into the said trench) and broke his arm, and suffered great pain, and was prevented from attending to his business for a long time, and Incurred expense for medical attendance.

(Demand of judgment.)

(Ixxxi) For diverting a Watercourse

(Title.)

- 1.—That the plaintiff is, and at the time hereinafter mentioned was, possessed of a mill situated on a stream known as the in the village of district of
- 2.—That by reason of such possession the plaintiff was entitled to the flow of the said stream for working the said mill.

3.—That on the day of 19 the defendant by cutting the bank of the said stream, wrongfully diverted the water thereof, so that less water ran into the plaintiffs mill.

4.—That by reason thereof the plaintiff has been unable to grind more than sacks per day, whereas, before the said diversion of water, he was able to grind sacks per day.

(Demand of judgment.)

(Ixxxii) For obstructing a Right to use Water for Irrigation

(Title.)

1.—That the plaintiff is, and was at the lime hereinafter mentioned, possessed of certain lands situate, &c, and entitled to take and use a portion of the water of a certain stream for irrigating the said lands.

2.—That on the day of 19 the defendant prevented the plaintiff from taking and using the said portion of the said water as aforesaid, by wrongfully obstructing and diverting the said stream.

(Demand of judgment.)

(Ixxxiii) For Waste by a Lessee

(Title.)

1.—That on the day of 19 the defendant hired from plaintiff (the house No. street) for the term of

2.—That the defendant occupied the same under such hiring.

3.—That during the period of such occupation the defendant greatly injured the premises (defaced the walls, tore up the floors, and broke down the doors ; or otherwise specify the injuries as jar as possible).

The plaintiff prays Judgment for rupees compensation.

(Ixxxiv) For Assault and Battery

(Title.)

That on the day of 19 at , the defendant assaulted and beat plaintiff.

The plaintiff prays Judgment for rupees compensation.

(Ixxxv) For Assault and Battery, with Special Damage

(Title.)

1.—That on the day of 19 , at , the defendant assaulted and beat him until he became insensible.

2.—That the plaintiff was thereby disabled from attending to his business for (six weeks thereafter), and was compelled to pay rupees for medical attendance, and has been ever since disabled (from using his right arm. or otherwise state the damage as the case may be).

(Demand of judgment.)

(Ixxxvi) For Assault and False Imprisonment

(Title.)

1.—That on the day of 19, at the defendant assaulted the plaintiff and imprisoned him for days (or hours). (State special damage, if any thus—)

2.—That by reason thereof the plaintiff suffered great pain of body and mind and was exposed and injured in his credit and circumstances, and was prevented from carrying on his business and from providing for his family by his personal care and attention, and incurred expense in obtaining his liberation from the said imprisonment (or otherwise, as the case may be.)

(Demand adjudgment.)

(Ixxxvii) For Injuries caused by Negligence on Railroad

(Title.)

1.—That on the day of 19 the defendants were common carriers of passengers by railway between and

2.—That on that day the plaintiff was a passenger in one of the carriages of the defendants on the said road.

3.—That while he was such passenger at (or near the station of or between the stations of and), a collision occurred on the said railway caused by the negligence and unskilfulness of the defendants' servants, whereby the plaintiff was much injured (having his leg broken, his head cut. &c., and slate the special damage, if any, as) and incurred expense for medical attendance, and is permanently disabled from carrying on his former business as (a salesman).

(Demand of judgment.)

(Or thus: 2.—That on that day the defendants by their servants so negligently and unskilfully drove and managed an engine and a train of carriages attached thereto upon and along the defendants' railway which the plaintiff was then lawfully crossing, that the said engine and train were driven and struck against the plaintiff, whereby, &c., as in paragraph 3.)

(Ixxxviii) For Injuries caused by Negligent Driving

(Title.)

1.—The plaintiff is a shoemaker, carrying on business at The defendant is a merchant of

2.—On the (23rd , 19.....) the plaintiff was walking eastward along street, in Colombo, at about 3 o'clock in the afternoon. He was obliged to cross street, which is a street running into street at right angles. While he was crossing this street, and just before he could reach the foot-pavement on the further side thereof, a carriage of the defendant's, drawn by two horses, under the charge and control of the defendant's servants, was negligently, suddenly, and without any warning, turned at a rapid and dangerous pace out of street into street. The pole of the carriage struck the plaintiff and knocked him down, and he was much trampled by the horses.

3.—By the blow and fall and trampling the plaintiff's left arm was broken and he was bruised and injured on the side and back, as well as internally, and in consequence thereof the plaintiff was for four months ill and in suffering, and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

The plaintiff claims rupees damages.

(Ixxxix) For Libel, the Words being libellous in themselves

(Title.)

1.—That on the day of 19, at the defendant published in a newspaper, called the (or in a letter addressed to E. F.), the following words concerning the plaintiff:

(Set forth the words used.)

2.—That the said publication was false and malicious.

(Demand of judgment.)

[NOTE.—If the libel wa.f in a language not the language of the coun, set out the libel verbatim in the language in which it wu'i published, and then proceed thus : " which said wordy being translated into the language, have the meaning and effect following, and were so understood by the persons to whom they were so published ; that is to say (here set out a literal translation of the libel in the language of the court). "]

(xc) For Libel, the Words not being libellous in themselves

(Title.)

1.—That the plaintiff (is, and) was on and before the day of. 19 a merchant doing business in the city of

2.—That on the day of. 19, at. the defendant published in a newspaper, called the (or in a tetter addressed to E. F. or otherwise how published), the following words concerning the plaintiff:

(" A. B. 0l this city has modestly retired to foreign lands. It is said that creditors to the amount of. rupees are anxiously seeking his address. ")

3.—That the defendant meant thereby that (the plaintiff had absconded to avoid his creditors, and with intent to defraud them).

4.—That the said publication was false and malicious.

(Demand of judgment.)

(xci) For Slander, the Words being actionable in themselves

(Title.)

1.—That on the day of. 19, at. the defendant falsely and maliciously spoke, in the hearing of E. F. (or sundry persons), the following words concerning the plaintiff: (" He is a thief ").

2.—That, in consequence of the said words, the plaintiff lost his situation as, in the employ of

(Demand of judgment.)

(xcii) For Slander, the Words not being actionable in themselves

(Title.)

1.—That on the day of. 19 at. the defendant falsely and maliciously said to one E. F. concerning the plaintiff: (" He is a young man of remarkably easy conscience. ")

2.—That the plaintiff was then seeking employment as a clerk, and the defendant meant, by the said words, that the plaintiff was not trustworthy as a clerk.

3.—That in consequence of the said words (the said E. F. refused to employ plaintiff as a clerk).

(Demand of judgment.)

(xciii) For MaUcwus Prosecution

(Title.)

1.—That on the day of 19, at the defendant obtained a warrant of arrest from a (Magistrate of the said city, or as the case may be), on a charge of and the plaintiff was arrested thereon, and imprisoned for (days or hours, and gave bail in the sum of rupees to obtain his release).

2.—That in so doing the defendant acted maliciously and without reasonable or probable cause.

3.—That on the day of 19 the said Magistrate dismissed the complaint of the defendant, and acquitted the plaintiff.

4.—That many persons, whose names are unknown to the plaintiff, hearing of the said arrest, and supposing the plaintiff to be a criminal, have ceased to do business with him; or that in consequence of the said arrest, the plaintiff lost his situation as a clerk to one E. F.. or that by reason of the premises the plaintiff suffered pain of body and mind and was prevented from transacting his business, and was injured in h.s credit, and incurred expenses in obtaining his release from the said imprisonment and defending himself against the said complaint.

(Demand adjudgment.)

PLAINTS IN ACTIONS FOR SPECIFIC PROPERTY

(xciv) By the Absolute Owner for the Possession of Immovable Property

(Title.)

1.—That X. Y. was the absolute owner (of the estate, or the share of the estate, called situated in the district of of the estimated value of rupees, or of the house No. street, in the town of Colombo, the estimated value of which is rupees).

2.—That on the day of 19 Z, illegally dispossessed the said X. Y. of the estate (or share or house).

3.—That the said X. Y. has since died intestate, leaving the plaintiff, the said A. B., his heir him surviving.

4.—That the defendant withholds the possession of the estate (or share or house) from the plaintiff.

The plaintiff prays judgment:

- (1) For the possession of the said premises;
- (2) For rupees compensation for withholding the same.

(Another form)

1.—On the day of the plaintiff, by an instrument in writing, let to the defendant a house and premises (No. 52, in the) for a term of five years from the day of at the monthly rent of three hundred rupees.

2.—By the said instrument the defendant covenanted to keep the said house and premises in good and tenantable repair.

3.—The said instrument contained a clause of re-entry entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved, whether demanded or not, should be in arrear for twenty-one days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.

4.—On the day of 19 a month's rent became due, and on the day of 19 another month's rent became due ; on the day of 19 both had been in arrear for twenty-one days, and both are still due.

5.—On the same day of 19 the house and premises were not and are not now in good or tenantable repair and it would require the expenditure of a large sum of money to reinstate the same in good and tenantable repair, and the plaintiffs reversion is much depreciated in value.

The plaintiff claims:

- (1) Possession of the said house and premises;
- (2) rupees for arrears of rent;
- (3) rupees compensation for the defendant's breach of his covenant to repair;
- (4) rupees for the occupation of the house and premises from the day of 19, to the day of recovering possession.

(xcv) *By the Tenant*

(Title.)

1.—That one *E. F.* is the absolute owner of (a piece of land in the town of bounded as follows :), the estimated value of which is rupees.

2.—That on the day of 19 the said *E. F.* let the said premises to the plaintiff for years, from

3.—That the defendant withholds the possession thereof from the plaintiff.

(Demand of judgment.)

(xcvi) *For Movable Properly wrongfully taken*

(Title.)

1.—That on the day of 19, plaintiff owned (or was possessed of) one hundred barrels of flour, the estimated value of which is rupees.

2.—That on that day, at the defendant took the same.

The plaintiff prays judgment:

- (1) For the possession of the said goods, or for rupees in case such possession cannot be had;
- (2) For rupees compensation for the detention thereof.

(xcvii) *For Movables wrongfully detained*

(Title.)

1.—That on the day of 19 plaintiff owned (or state facts showing a right to the possession) the goods mentioned in the schedule hereto annexed (or describe the goods), the estimated value of which is rupees.

2.—That from that day until the commencement of this suit the defendant has detained the same from the plaintiff.

3.—That before the commencement of his suit, to wit, on the day of 19 the plaintiff demanded the same from the defendant, but he refused to deliver them.

The plaintiff prays judgment:

- (1) For the possession of the said goods, or for rupees in case such possession cannot be had;
- (2) For rupees compensation for the detention thereof.

(The Schedule.)

(xcviii) *Against a Fraudulent Purchaser and his Transferee with Notice*

(Title.)

1.—That on the day of 19 at..... the defendant C. D; for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that (he was solvent and worth rupees over all his liabilities).

2.—That the plaintiff was thereby induced to sell and deliver to the said C. D. (*one hundred boxes of tea*), the estimated value of which is rupees.

3.—That the said representations were false, and were then known by the said C. D. to be so. (*Or, That at the time of making the said representations the said C. D. was insolvent, and knew himself to be so.*)

4.—That the said C. D. afterwards transferred the said goods to the defendant E. F. without consideration (*or who had notice of the falsity of the representation.*)

The plaintiff prays judgment;

- (1) For the possession of the said goods, or for rupees in case such possession cannot be had;
- (2) For rupees compensation for the detention thereof.

PLAINTS IN ACTIONS FOR SPECIAL RELIEF

(xcix) *For Rescission of a Contract on the Ground of Mistake*

(Title.)

1.—That on the day of 19, the defendant represented to the plaintiff that a certain piece of ground belonging to the defendant, situated at..... contained (*ten acres*).

1.—That the plaintiff was thereby induced to purchase the same at the price of..... rupees, in the belief that the said representation was true, and signed an instrument of agreement of which a copy is hereto annexed. But no conveyance of the same has been executed to him.

3.—That on the day of 19 the plaintiff paid the defendant..... rupees as part of such purchase-money.

4.—That the said piece of ground contained in fact only (*five acres*).

The plaintiff prays judgment:

- (1) For rupees, with interest from the day of, 19
- (2) That the said agreement of purchase be delivered up and cancelled.

(c) *For an Injunction restraining Waste*

(Title.)

1.—That plaintiff is the absolute owner of (*describe the property*).

2.—That the defendant is in possession of the same under a lease from the plaintiff.

3.—That the defendant has (*cut down a number of valuable trees, and threatens to cut down many more for the purpose of sale*) without the consent of the plaintiff.

The plaintiff prays judgment that the defendant be restrained by injunction from committing or permitting any further waste on the said premises.

(*Pecuniary compensation might also be prayed.*)

(d) *for Abatement of a Nuisance*

(Title.)

- 1.—That plaintiff is, and at all the times hereinafter mentioned was, the absolute owner of (the house No..... street).
 - 2.—That the defendant is, and at all the said times was, the absolute owner of a (plot of ground in the same street
 - 3.—That on the day of 19 the defendant erected upon his said plot a slaughter-house, and still maintains the same; and from that day until the present time has continually caused cattle to be brought and killed there (and has caused the blood and offal to be thrown into the street opposite the said house of the plaintiff).
 - 4.—That (the plaintiff has been compelled, by reason of the premises, to abandon the said house, and has been unable to rent the same).
- The plaintiff prays judgment that the said nuisance be abated.

(di) *For an Injunction against the Diversion of a Watercourse*

(Title.)

(As inform Ixxxii.)

The plaintiff prays judgment that the defendant be restrained by injunction from diverting the water as aforesaid.

(cm) *For Restoration of Movable Property, threatened with Destruction, and for an Injunction*

(Title.)

- 1.—That plaintiff is, and at all the times hereinafter mentioned was, the owner of a (*portrait of his grandfather which was executed by an eminent painter*), and of which no duplicate exists (*or slate any facts showing that the property is of a kind that cannot be replaced by money*).
- 1.—That on the day of 19 he deposited the same for safe keeping with the defendant.
- 3.—That on the day of 19, he demanded the same from the defendant and offered to pay all reasonable charges for the storage of the same.
- 4.—That the defendant refuses to deliver the same to the plaintiff, and threatens to conceal, dispose of, cut, or injure the same if required to deliver it up.
- 5.—That no pecuniary compensation would be an adequate compensation to the plaintiff for the loss of the (*painting*).

The plaintiff prays judgment:

- (1) That the defendant be restrained by injunction from disposing of, injuring, or concealing the said (*painting*);
- (2) That he return the same to the plaintiff.

(civ) *Interpleader*

(Title.)

- 1.—That before the date of the claims hereinafter mentioned, one *G. H.* deposited with the plaintiff (*describe the property*) for (safe keeping).
- 2.—That the defendant, *C D.*, claims the same (under an alleged assignment thereof to him from the said *G, H.*).

3.—That the defendant, *E. F.*, also claims the same (under an order of the said *G. H.* transferring the same to him).

4.—That the plaintiff is ignorant of the respective rights of the defendants.

5.—That he has no claim upon the said property, and is ready and willing to deliver it to such persons as the court shall direct.

6.—That this suit is not brought by collusion with either of the defendants.

The plaintiff prays judgment:

- (1) That the defendants be restrained, by injunction, from taking any proceedings against the plaintiff in relation thereto;
- (2) That they be required to interplead together concerning their claims to the said property ;
- (3) That some person be authorized to receive the said property pending such litigation;
- (4) That upon delivering the same to such (person), the plaintiff be discharged from all liability to either of the defendants in relation thereto.

(cv) *Execution of Trusts*

(Title.)

1.—That plaintiff is one of the trustees under an instrument of settlement bearing date on or about the day of made upon the marriage of *E. F.* and *G. H.*, the father and mother of the defendant (*or* an instrument of assignment of the estate and effects of *E. F.* for the benefit of *C. D.*, the defendant, and other the creditors of *E. F.*).

2.—The plaintiff has taken upon himself the burden of the said trust, and is in possession (*or of* the proceeds of) the movable and immovable property conveyed (*or* assigned) by the before-mentioned deed.

3.—The said *C. D.* claims to be entitled to a beneficial interest under the before-mentioned deed.

4.—The plaintiff is desirous to account for all the rents and profits of the said immovable property (and the proceeds of the sale of the said, or of part of the said, immovable property, or movable *or* the proceeds of the sale of, *or* part of, the said movable property, *or* the profits accruing to the plaintiff as such trustee in the execution of the said trust): and he prays that the court will take the accounts of the said trust, and also that the whole of the said trust-estate may be administered in the court for the benefit of the said *C. D.*, the defendant, and all other persons who may be interested in such administration, in the presence of the said *C. D.* and such other persons so interested as the court may direct, or that the said *C. D.* may show good cause to the contrary.

(cvi) *Realization of Mortgage*

(Title.)

1.—By a writing obligatory dated the day of 19 the defendant bound himself to pay to the plaintiff (his heirs, &c.) the principal sum of rupees, together with interest thereon at the rate of *per centum* per annum (on demand, or *as the case may be*).

1.—For securing the payment of the said principal and interest the defendant mortgaged with the plaintiff, his heirs, &c., the following property (*describe*).

3.—(*Where the bond is not payable on demand, allege notice.*)

4.—There is now due from the defendant to the plaintiff the sum of rupees for principal and interest on the said writing.

5.—The plaintiff prays that the court will order the defendant to pay him the said sum of rupees, with such further interest as may accrue between the filing of the libel and the day of payment, and also the costs of this action, on some day to be named by the court, and in default that the said premises may be sold, and

the proceeds applied in and towards the payment of the amount of the said principal, interest, and costs; and that if such proceeds shall not be sufficient for the payment in full of such amount, the defendant do pay to the plaintiff the amount of the deficiency with interest thereon at the rate of *per centum* per annum until realization ; and that for that purpose all proper directions may be given, and accounts taken by the court.

(cvu) *Redemption*

(Title.)

Alter form cvi thus :

Transpose parties and also the facts in paragraphs 1 and 2.

For paragraph 4 substitute—

4.—There is now due from the plaintiff to the defendant, for principal and interest on the said writing, the sum of rupees, which the plaintiff is ready and willing to pay to the defendant, of which the defendant, before the filing of this libel, had notice.

For paragraph 5 substitute—

5.—The plaintiff prays that he may redeem the said premises and that the defendant may be ordered to release the same to him upon the payment of the said sum of rupees and interest, with such costs (if any) as the court may order, upon a day to be named by the court, and that the court will give all proper directions for the preparation and execution of such release and doing such other acts as may be necessary to put him into possession of the said premises freed from the said mortgage.

(cviii) (a) *Specific Performance*

(Title.)

1.—By an agreement dated the day of : , 19 and signed by the above-named defendant, C D., he, the said C. D. contracted to buy of (or sell to) plaintiff certain immovable property therein described and referred to, for the sum of rupees,

2.—Plaintiff has applied to the said C. D. specifically to perform the said agreement on his part, but he has not done so.

3.—Plaintiff has been and still is ready and willing specifically to perform the agreement on his part, of which the said C. D. has had notice.

4.—The plaintiff prays that the court will order the said C. D. specifically to perform the said agreement, and to do all acts necessary to put plaintiff in full possession of the said property (or to accept a conveyance and possession of the said property) and to pay the costs of the action.

[N. B.—In action for delivery up. to be cancelled, of any agreement, omit paragraphs 2 and 3 and substitute a paragraph slating generally the grounds for requiring the agreement to be delivered up to be cancelled—such as, that the plaintiff signed it by mistake, under duress, or by the fraud of the defendant—and alter the prayer according to the relief sought.]

(cix) (b) *Special Performance*

(Title.)

1.—That on the day of 19 the defendant was absolutely entitled to certain immovable property described in the agreement hereto annexed.

2.—That on the same day the plaintiff and defendant entered into an agreement under their hands, a copy of which is hereto annexed.

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3.—That on the day of 19....., the plaintiff tendered rupees to the defendant, and demanded a conveyance of the said property.

4.—That on the day of 19 - , the plaintiff again demanded such conveyance.

5.—That the defendant has not executed such conveyance. (Or, That the defendant refused to convey the same to the plaintiff.)

6.—That the plaintiff is still ready and willing to pay the purchase-money of the said property to the defendant.

The plaintiff prays judgment:

- (1) That the defendant execute to plaintiff a sufficient conveyance of the said property (following the terms of the agreement);
(2) For rupees compensation for withholding the same.

(ex) Partnership

(Title.)

1.—He, the plaintiff, and the said C. D- the defendant, have been for the space of years (or months) last past carrying on business together at , - - within the jurisdiction of this court, under certain articles of partnership in writing, signed by them respectively (or under a certain deed sealed and executed by them respectively, or under a verbal agreement between them, the said plaintiff and defendant).

2.—Divers disputes and differences have arisen between the plaintiff and defendant as such partners, whereby it has become impossible to carry on the said business in partnership with advantage to the partners.

3.—The plaintiff desires to have the said partnership dissolved, and he is ready and willing to bear his share of the debts and obligations of the partnership according to the terms of the said articles (or deed or agreement).

4.—The plaintiff prays the court to decree a dissolution of the said partnership, and that the accounts of the said partnership-trading may be taken by the court, and the assets thereof realized, and that each party may be ordered to pay into court any balance due from him upon such partnership account, and that the debts and liabilities of the said partnership may be paid and discharged, and that the costs of the action may be paid out of the partnership assets, and that any balance remaining of such assets, after such payment and discharge, and the payment of the said costs, may be divided between the plaintiff and defendant, according to the terms of the said articles (or deed, or agreement), or that if the said assets shall prove insufficient, he, the plaintiff, and the said defendant may be ordered to contribute in such proportions as shall be just to a fund to be raised for the payment and discharge of such debts, liabilities, and costs. And to give such other relief as the court shall think fit.

[N. B.—In actions for winding up of any partnership, omit the prayer for dissolution: but insert a paragraph stating the fact of the partnership having been dissolved.]

No. 34

[Section 471.] FORM OF ORDER FOR THE PERSONAL APPEARANCE OF PLAINTIFF, OR THE DIRECTOR OR SECRETARY OR OTHER PRINCIPAL OFFICER OF A CORPORATION, BOARD, PUBLIC BODY OR COMPANY

(Title.)

To of plaintiff in the above-named action (or director, or secretary, or other principal officer of the corporation, board, public body or company).

You are hereby summoned to attend in person in this court in the action above specified at o'clock of the forenoon on the day of 19

(Signed) (Name and office of Judge).

The day of 19

No. 35

FORM OF LIST OF DOCUMENTS PRODUCED BY PARTIES AT THE HEARING

[Section 113.]

(Title.)

No.	Description of Document	Date (if any) Which it bears	Signature of Party or Registered Attorney

No. 36

FORM OF RECEIPT BOOK FOR RETURNED EXHIBITS

[Section 116.]

Description of exhibit	By whom presented	No. of action in which presented	Date on which time for appeal elapsed or appeal disposed of	Cost of copy paid	Signature of person to whom exhibit returned	Date of return	Signature of officer by whom exhibit returned
<i>Enter description merely and not substance of exhibit.</i>							<i>(Should be signed by officer in charge of this register.)</i>

No. 37

FORM OF PROCLAMATION TO BE ISSUED WHEN SUMMONS CANNOT BE SERVED

[Section 131.]

In the District Court of (or as the case may be).

PROCLAMATION

(Title.)

To all to whom these presents shall come, greeting.

Whereas it appears by the return made by the Fiscal of to a certain summons issued in the above-named action at the instance of the above-named (plaintiff or defendant), whereby one (name of witness) was required to appear and testify on behalf of the (plaintiff or defendant) in the said action [or to produce (any document required, describing it)] that the said Fiscal has not been able to serve a copy of the said summons on the said (witness): And whereas it appears to the satisfaction of this court that the said (witness) has absconded (or is keeping out of the way for the purpose of avoiding such service as aforesaid), and that he is a necessary and material witness on behalf of the said (plaintiff or defendant) at the trial of the above-named action [or that the production of the said (document) is necessary and material, &c.], without whose testimony (or without which) the said (plaintiff or defendant) cannot safely proceed to trial: It is hereby proclaimed that the said (witness) is required to attend at this court on the day of, 19, at o'clock of the forenoon, to give evidence (or to produce, as before) on behalf of the said (plaintiff or defendant) under pain of sequestration of the movable and immovable property of the said in case of his default, and of such further proceedings as may be found necessary.

By order of court,

The day of, 19 (Signed) Registrar.

No. 38

FORM OF MANDATE OF SEQUESTRATION AFTER PROCLAMATION

[Section 131.]

(Title.)

To the Fiscal of the Court of

Whereas it appears by the return made by you (or by the Fiscal of, as the case may be) to a certain summons issued in the above-named action at the instance of the above-named (plaintiff or defendant), whereby one (name of witness) was required to appear and testify on behalf of the (plaintiff or defendant) in the

said action (or to produce any document, describing it) that you (or the said, Ac., as the case may be) have (has) not been able to serve a copy of the said summons on the said (witness): And whereas it has been proved to the satisfaction of this court that the said (witness) has absconded (or is keeping out of the way for the purpose of avoiding such service as aforesaid), and that he is a necessary and material witness on behalf of the said (plaintiff or defendant) at the trial of the above-named action [or that the production of the said (document) is necessary and material, &c.], without whose testimony (or without which) the said (plaintiff or defendant) cannot safely proceed to trial: And whereas in consideration of the premises a proclamation was on the day of 19 issued by this court requiring the attendance of the said (witness) at this court for the purpose aforesaid on the day of 19 at o'clock of the forenoon, and the said (witness) has not attended at such time and place in accordance with the terms of such proclamation: You are therefore commanded to seize and sequester the houses, lands, goods, moneys, securities for money, and debts of the said (witness) to the value of (insert value not exceeding the amount of cost of sequestration and of the fine imposable under section 133), wheresoever and in whose custody or possession soever the same may be within this district, and to retain and secure the same until the said (witness) shall appear and abide by the order of this court or until you receive further directions from this court herein : and to give due notice in writing to all persons in whose possession or power such property of the said (witness), whether movable or immovable, shall be, of this sequestration and requiring them to reserve and retain the same, and all issues, rents, profits, and interest accruing therefrom, to abide the order of this court. And you are further commanded on the day of next to inform this court what property you shall have so seized and sequestered, with the true value of the same, and in whose possession the same respectively was at the time of such seizure : and have you there this mandate.

By order of court,

(Signed)..... Registrar.

The day of 19

ENDORSEMENT ON THE ABOVE FOR FURTHER SEQUESTRATION

To the Fiscal of the Court of.....

Seize and sequester property of the within-named defendant to the further amount of rupees, in manner and form as you were hereby before directed.

(Signed), District Judge.

No. 39

[Section 137.]

FORM OF WARRANT OF ARREST AGAINST A WITNESS FOR DISOBEDIENCE TO A SUMMONS

(Title.)

To the Fiscal of the Court of.....

Whereas it appears by your return to a certain summons issued in the above-named action at the instance of (plaintiff or defendant), whereby one (name of witness) was required to appear and testify on behalf of the (plaintiff or defendant) in the said action or to produce any document required, (describing it), that the said (witness) named therein was duly served with a copy thereof, but the said (witness) has failed to appear in contravention of the provisions of section 136 of the Civil Procedure Code): You are therefore to seize and arrest the said (witness) and bring him before this court forthwith, in order that he may undergo the penalties legally awarded against him for such contempt and disobedience, and further perform and abide by such order as the court shall make in this behalf: and have you there this warrant.

(Signed) District Judge (or as the case may be).

The day of 19.....

CIVIL PROCEDURE CODE

[Cap. 105

No. 46

FORM OF NOTICE TO PARTIES OF THE DAY FIXED FOR THE EXAMINATION OF A WITNESS ABOUT TO LEAVE THE JURISDICTION [Section 178.]

(Title.)

To (plaintiff or defendant).

Whereas application has been made to this court by the (defendant or plaintiff) in the above-named action that the examination of of a witness required by him in the said action, may be taken immediately ; and it has been shown to the satisfaction of this court that the said witness is about to leave the court's jurisdiction (or stale any other good and sufficient cause): Take notice that the examination of the (witness) will be taken by the court on the day of 19..... at o'clock.

By order of court.

(Signed)..... Registrar.

The day of 19.....

No. 41

FORM OF DECREE [Section 188.]

(Title.)

This action coming on for final disposal before (name and office a/Judge) on the day of 19 (in the presence of on the part of the plaintiff and on the part of the defendant), it is ordered and decreed (specify in precise terms the order made in the judgment).

(And it is further ordered that the said do pay to the said his costs of this action (in Primary Courts stating the amount) as taxed by the officer of the court, with interest thereon at the rate of from the date of taxation to the date of realization.)

(Where the decree is for delivery of immovable property, describe the property in accordance with the requirements of section 190.

Where the decree is for delivery of movable property, specify the amounts to be paid as alternative if delivery cannot be had.

In case of specific performance, state the amount of damages to be paid if the contract is not performed.

Where defendant is allowed a set-off, state what is due to plaintiff and defendant, and decree recovery of the balance.

Where mesne profits pending or prior to action are claimed vary decree according to sections 195. 196

Where the action is to enforce a right of pre-emption, or to realize a mortgage, carry out the directions of sections 200, 201.

In any case where a decree or order has the effect of postponing the final determination of a case specify therein the date of further hearing.)

(Signed) (Name and office of Judge).

The day of 19

[Sections 224 and 225.]

FORM OF APPLICATION FOR EXECUTION OF A DECREE BY SEIZURE AND SALE OF MOVABLE PROPERTY

In the District Court of

I, A. B., plaintiff, hereby apply for execution of the decree herein below set forth :

Number of Action	Names of Parties	Date of Decree	Whether any Appeal preferred	Adjustment made, if any	Previous Application, if any, and Result	Amount of debt, Compensation, Interest, or other Relief granted by Decree	Amount of Costs, if any, awarded	Against whom to be enforced	Mode in which the Court's Assistance is required
1	2	3	4	5	6	7	8	9	10
No. 175 D. C., Colombo	A. B., Plaintiff against C.D., defendant	21st Sept., 1938	No	—	—	Rs. 250 principal (interest at—per centum from date of decree to payment)	Rs. 25.75 costs as awarded in the decree, Rs. 10.50 subsequently incurred Rs. 36.25	The defen- dant C.D.	I pray that the total amount of Rs. — (together with interest on the principal sum up to date of payment), and the costs of taking out this execution, be realized by (indicate manner of relief required).

I, A. B., hereby declare that what is stated herein is true to the best of my information and belief.

(Signed) A. B.

This day of, 19

No. 43

[Section 225.]

FORM OF WRIT OF EXECUTION AGAINST PROPERTY

(Title.)

To the Fiscal of the Court of

Levy and make of the houses, lands, goods, debts, and credits of the above-named, by seizure, and, if necessary, by sale thereof, the sum of rupees, which the said has recovered against the said by a judgment of the court bearing date the day of, 19, and have that money before this court on the day of, 19, to render to the said, and inform this court for what sum or sums, and to what person or persons, you have sold the property respectively: and have you there this mandate.

By order of court,

(Signed), Registrar.

The day of, 19

CIVIL PROCEDURE CODE

[Cap.105

No. 44

FORMS OF PROHIBITORY NOTICES

[Section 229.]

(In the case of a debt not secured by a negotiable instrument.)

To *(defendant)* and to *{defendant's debtor}*.

Whereas *(defendant)* has failed to satisfy a decree passed against him on the day of 19 in *(title, &c., of case)*, in favour of for rupees:

I hereby give you notice that you, the said defendant, are hereby prohibited and restrained until the further order of the court from which execution in the said action issued from receiving from the said *(debtor)* a certain debt alleged to be now due from him to you, namely *(particularize it)*: and that you, the said are hereby prohibited and restrained until such further order from making payment of the said debt or any part thereof to any person whomsoever.

(Signed)..... Fiscal.

The.....day.....of.....19 .

No. 45

(In the case of a share in a public company, &c.)

To *(defendant)* and to manager *(&c.)*, company.

Whereas has failed to satisfy a decree *(recital as in No. 44)*: I hereby give you notice that you, the defendant, are hereby prohibited and restrained until the further order of the court *(as before)* from making any transfer of shares in the aforesaid company, namely, or from receiving payment of any dividends thereof: and that you, the said manager of the said company, are hereby prohibited and restrained from permitting any such transfer or making any such payment.

(Signed)..... Fiscal.

No. 46

(In case of movable property not in the possession of judgment-debtor.)

To *(defendant)* and to *(person in possession)*.

Whereas *(recital as in No. 44)*: I hereby give you notice that you, the said defendant, are hereby prohibited and restrained until the further order *(as before)* from receiving from the said the following property now in his possession; that is to say *(name it)*, to which you, the said defendant, are entitled subject to any claim of the said and that you, the said are hereby prohibited and restrained until *(as before)* from delivering such property to any person whomsoever.

(Signed)..... Fiscal.

No. 47

FORM OF NOTICE WHERE PROPERTY IS IN CUSTODY OF A COURT OR PUBLIC OFFICER

[Section 232.]

(Title.)

Sir,—The plaintiff in the above-named action having applied under section of the Civil Procedure Code for seizure of certain moneys *(or as the case is)* now in your hands *(state how the moneys, &c., are in the hands of the person addressed, on what account, &c.)* I request that you will hold the said *(moneys)*, and any interest or dividend becoming payable thereon, subject to the further order of the court from which writ of execution in the said action issued.

I have, &c-, Fiscal.

The day.....of..... 19

No. 48

[Section 234.]

FORM OF NOTICE TO A COURT REQUESTING STAY OF EXECUTION OF ITS DECREE

(Title.)

To (name and office of Judge).

Whereas A. B; plaintiff in the above-named action, obtained a decree against C. D; defendant in the said action, in this court on the day of 19, for the payment of rupees ; and whereas application has been made to this court for the seizure in execution of the said decree of a decree obtained in your court by the said defendant against in (title of action): you are hereby requested to stay the execution of your said decree (until this notice shall be cancelled by this court, or as the case may be).

By order of court,

(Signed)..... , Registrar.

The day of , 19.....

No. 49

[Section 235.]

FORM OF PROHIBITORY NOTICE TO HOLDER OF A DECREE SOUGHT TO BE SEIZED

(Title.)

To (defendants).

Whereas in execution of the decree passed against you in the above-named action application has been made for the seizure of the decree passed against in (title. &c., of action) of which you are the holder : you are hereby prohibited from transferring or charging the said decree in any way.

By order of court,

(Signed)..... , Registrar.

No. 50

[Section 237.]

FORM OF PROHIBITORY NOTICE IN CASE OF IMMOVABLE PROPERTY

To (defendant).

Whereas you have failed to satisfy a decree passed against you on the day of , 19, in (title, &c. of case) in favour of for rupees (here set out the particulars required by [he section.) I hereby give you notice that you, the said defendant, are hereby prohibited and restrained until the further order of the court from which execution in the said action issued from in any way transferring, alienating, or charging the property specified in the schedule hereto annexed, and that all persons are prohibited from receiving the same or any part thereof by purchase, gift, or otherwise.

(Signed) Fiscal.

The.....; day of 19.....

(The Schedule.)

No. 51

[Section 259.]

FORM OF CERTIFICATE TO JUDGMENT-DEBTOR AUTHORIZING HIM TO MORTGAGE. LEASE, OR SELL PROPERTY

(Title.)

Whereas in execution of the decree passed in the above-named action notice of the sale of certain immovable property of the judgment-debtor has been given, and the court has, on the application of the said judgment-debtor postponed the said sale to enable him to raise the amount of the decree by (mortgage, lease, or private sale as the case may be) of the under-mentioned property or part thereof.

This is to certify that the court doth hereby authorize the said judgment-debtor to make the proposed (mortgage, lease or sale) within a period of from the date of the certificate :

Provided that all moneys payable under such" (mortgage, lease, or sale) shall be paid into this court and not to the said judgment-debtor ; and provided, further, that no such (mortgage, lease or sale) shall become absolute until the same shall have been confirmed by this court.

(Signed) Judge.

The day of 19

(Details of property referred to.)

No. 52

FORM OF FISCAL'S CERTIFICATE WHERE THERE HAS BEEN A RESALE AT A LOSS. OR A FAILURE TO PAY THE DEPOSIT

[Sections 260—267.]

(Title.)

I, A. B., Fiscal of the Court of hereby certify that the under-mentioned property was, on the day of 19, duly put up for sale under writ No of this court in execution of the decree in the above-named action.

One was duly declared to be the purchaser of the said property at the said sale at the price of rupees.

(The said on being so declared to be such purchaser, failed to pay down the deposit of 25 per centum on the amount of his purchase-money to the officer conducting the sale, and to give good and sufficient security to the satisfaction of such officer for the payment of the residue, in manner by law required ; and one being the next highest bidder at the said sale, was thereupon duly declared to be the purchaser of the said property at the price of rupees.

The said thereupon became liable to pay the difference between the said several sums of rupees and rupees, amounting to rupees.)

Or,

(The said duly paid the deposit of 25 per centum on the amount of the said purchase-money to the officer conducting the sale and entered into good and sufficient security to the satisfaction of such officer for payment of the residue, in manner by law required, but the said has failed to pay such residue, although thirty full days have elapsed since the day of sale.

In consequence of the failure aforesaid the said property was, on the day of 19, again put up for sale under the said writ, and resold, and one was duly declared to be the purchaser at such resale at the price of rupees.

The said thereupon became liable to pay the difference between the said several sums of rupees and rupees, amounting to the sum of rupees.)

(Conclude :) Demand in writing was duly made upon the said for the payment of the said sum of rupees, on the day of 19 but although one week has elapsed since the date of such demand the said has not paid the said sum of rupees.

(Signed) Fiscal, Court of.

The day of 19

(Schedule of property.)

No. 53

FORM OF NOTICE TO PERSON IN POSSESSION OF MOVABLES SOLD IN EXECUTION

[Section 278.]

(Title.)

To (person in possession).

Whereas has become the purchaser at a sale by auction in execution of the above-named action of (property) now in your possession, I hereby give notice that you are prohibited and restrained from delivering possession thereof to any person except the said

(Signed) Fiscal.

The day of 19

No. 54

[Section 279.] FORM OF NOTICE PROHIBITING PAYMENT OF DEBTS SOLD IN EXECUTION TO ANY PERSON BUT THE PURCHASER

To (*judgment-debtor*) and to (*judgment-debtor's debtor*).

Whereas has become the purchaser at a sale (&c.) of a certain debt due from you, to you, that is to say (*stale particulars*), I hereby give you notice that you the said are hereby prohibited from receiving payment of the said debt, and you the said from making payment of the same to any person except the said (*purchaser*).

(Signed) _____, Rscal.

The _____ day of, _____ 19

(Where the property sold in execution consists of shares, [his form must be followed, but the notice will be directed to the person in whose name the shares are standing, and to the manager of the company, and will be prohibitory of transferring the shares or receiving or making payment of dividends thereon.]

No. 55

[Section 283.]

FORM OF ORDER CONFIRMING SALE OF LAND

(Title.)

Whereas the under-mentioned property was on the day of 19, sold by the Fiscal, in execution of the decree in the above-named action : and whereas thirty days have elapsed since the receipt of the said Fiscal's report of the said sale, and no application has been made to set aside the same (or *that objections made have been disallowed*): It is ordered that the said sale be and the same is hereby confirmed ("*mutatis mutandis* ", where the sale is set aside.)

(Signed)..... (Name and office of Judge.)

The day of....., 19.....

(Schedule)

No. 56

[Section 286.]

FORM OF FISCAL'S CONVEYANCE TO PURCHASER AFTER CONFIRMATION OF SALE BY COURT

To all to whom these presents shall come, greeting.

Whereas by virtue of a writ of execution issued from the Court of bearing date the day of 19 directed to the Fiscal (*or Deputy Fiscal as the case may be*) of the Court, whereby he was directed (*insert directions of the writ*), A. B. (*Fiscal*) of the said Court, did cause to be seized and taken the property hereinafter described, which, after due notice and publication in manner by law prescribed, was exposed to public sale on the day of 19, by acting under the authority of the said Fiscal, and was sold to as the highest bidder at the said sale for the sum of rupees :

And whereas the said (*purchaser*) has duly paid to the said (*Fiscal*) the whole of the said purchase-money, and thus became entitled to a conveyance of the said property (or, *where the plaintiff is purchaser*): And whereas the said (*purchaser*) has been allowed the amount of purchase (*or as the case may be*) in reduction of his claim, and has produced the order of court, copy whereof is hereunto annexed, and has thus become entitled, &c.):

And whereas the said court by an order dated the day of..... 19, copy of which is hereunto annexed, has duly confirmed the said sale:

Now these presents witness that the said A. B. Fiscal of the Court, in consideration of the said sum of rupees so paid by (or credited to) the said (*purchaser*) as aforesaid, the receipt whereof the said A. B. doth hereby acknowledge, hath sold and assigned and by these presents doth sell and assign, unto the said (*purchaser*), his heirs, executors, administrators, and assigns, all that (*name and description of the land by metes and bounds*), containing and described in the diagram or map annexed to (*some title deed delivered to the purchaser, or if there is none, then*) these presents, and marked to have and to hold the same with their and every of their appurtenances to him, the said (*purchaser*), his heirs, executors, administrators, and assigns for ever.

In witness whereof the said (Fiscal) hath hereunto subscribed his name at this day of 19

Witnesses:

Annexures. Fiscal, Court of,

{In cases where the sale has been effected in execution of a decree specifically directing a sale, the conveyance will be in accordance with the terms of the decree.}

No. 57

FORM OF ORDER OF DELIVERY OF POSSESSION TO A PURCHASER WHERE PROPERTY IN OCCUPANCY OF JUDGMENT-DEBTOR [Section 287.]

(Title.)

To the Fiscal, Court of,

Whereas has become the purchaser of (land) at a sale in execution of the decree in the above-named action, and whereas the said {land} is in the possession of you are hereby ordered to put the said {purchaser} into possession of the said (land), and, if need be, to remove any person bound by the decree who may refuse to vacate the same.

(Signed) (Name and office of Judge.)

the day of 19

No. 60

FORM OF WARRANT FOR ARREST OF A JUDGMENT-DEBTOR [Section 298.]

(Title.)

To the Fiscal of the Court of

Whereas was adjudged by a decree in the above-named, action, dated the day of 19 to pay to the above-named plaintiff the sum of rupees. as noted in the margin :

Rs. c. Principal Interest Costs

And whereas the said sum of rupees has not been paid to the said plaintiff in satisfaction of the said decree:

Execution

Total

And whereas the court is satisfied (here specify the grounds on which the warrant is issued):

These are to command you to arrest the said defendant, and unless the said defendant shall pay to you the said sum of rupees, together with rupees for the cost of executing this process, to bring the said defendant before this court as soon as practicable after his arrest.

You are further commanded to return this warrant on or before the day of 19, with an endorsement showing the day on and the manner in which it has been executed or the reason why it has not been executed,

(Signed) (Name and office of Judge.)

The day of 19

* Forms Nos. 58 and 59 are omitted as having ceased to be applicable to section 296, as replaced by Law No. 20 of 1977.

No. 60A

[Section 299.] FORM OF NOTICE ON JUDGMENT-DEBTOR TO SHOW CAUSE WHY HE SHOULD NOT BE COMMITTED TO JAIL

(Title.)

To (judgment-debtor).

Rs. c. Whereas you were adjudged by a decree in the above-named action, dated the day of
Principal..... 19, to pay to the plaintiff above-named the sum of rupees, as noted in the
Interest margin:
Costs

And whereas the said sum of rupees has not been paid to the said plaintiff in satisfaction of the said decree:

And whereas the court is satisfied (here specify the grounds on which the notice is issued):

Take notice that you are hereby required to appear before the court on the day of
. 19, at o'clock in the forenoon to show cause, if any, why you should not be
committed to jail in execution of the decree entered in the above-named action.

(Signed)
(Name and office of Judge.)

The day of 19

No.60B

[Section 303.] FORM OF WARRANT FOR ARREST OF A JUDGMENT-DEBTOR UNDER SECTION 303

(Title.)

Rs. c. To the Fiscal of the Court of
Principal
Interest Whereas was adjudged by a decree in the above-named action, dated the
Costs day of, 19, to pay to the above-named plaintiff the sum of rupees, as
Execution noted in the margin;

Total And whereas the said sum of rupees was not paid to the said plaintiff in satisfaction of the said decree:

And whereas the court was satisfied (here specify the grounds on which the notice under section 299 was issued):

And whereas the said was required by a notice issued by this court, dated the
day of 19, to appear before the court on the day of
19 at o'clock in the forenoon to show cause (if any) why he, the said
should not be committed to jail in execution of the decree entered in the above-named action :

And whereas the said failed to appear before this court on the day and at the time specified in the notice:

These are to command you to arrest the said and unless he, the said shall pay to you the said sum of rupees, together with rupees for the cost of executing this process, to bring the said before this court as soon as practicable after his arrest.

You are further commanded to return this warrant on or before the day of
19, with an endorsement showing the day on and the manner in which it has been executed or the reason why it has not been executed.

(Signed).....
(Name and office of Judge).

The day of 19

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No. 61

FORM OF WARRANT OF COMMITTAL TO JAIL

[Section 311.]

(Title.)

To the Fiscal of the Court of.....

Receive into your custody the body of who has been committed to jail in execution of a decree of this court dated the day of 19 entered in the above-named action, for the sum of rupees together with this warrant, and him safely keep in prison for a period of six months unless he shall in the meantime be discharged by order of this court.

(Signed).....
(Name and office of Judge).

The day of 19

No. 62

FORM OF WRIT FOR DELIVERY OF A SPECIFIC MOVABLE

[Section 320.]

(Title.)

To the Fiscal of the Court of.....

Whereas by a judgment of this court dated the day of 19 in the above-named action, the said (plaintiff) recovered against the said (defendant) (or the said defendant was ordered to deliver to the said plaintiff) the following [specify movable properly]: These are to command you that without delay you cause the said (articles) to be delivered to the said (plaintiff), or to such person as he shall assign to receive the same. And in what manner you shall have executed this writ make appear to this court immediately after the execution thereof, and have you there, &c.

(Signed)

The day of 19

No. 63

FORM OF WRIT FOR DELIVERY OF IMMOVABLE PROPERTY

[Section 323.]

(Title.)

To the Fiscal,

Whereas (recite "mutatis mutandis "as in last form): These are to command you that without delay you enter the same and cause the said to have possession of the said land and premises, &c. And in what manner (conclude as in last form).

No. 64

FORM OF NOTICE WHERE A SUM OF MONEY IN COURT IS CLAIMED

[Section 350.]

To (names of parties and claimants).

Take notice : That whereas the sum of rupees (recovered under a writ of execution issued from this court on the day of 19, has been carried to the separate account of the plaintiff in the above-named action, or as the case may be) and is now in court standing to the credit of the said plaintiff, and whereas the said (name or names of claimants) has (have) given notice to this court of a claim on their behalf to the said sum of rupees (or to rupees, part of the said sum of rupees) on the ground (state ground):

This court will, on the day of 19 a t o'clock of the forenoon, proceed to hear and entertain the said claim, and determine the respective rights of the parties in the said sum.

By order of court,

(Signed)..... Registrar.

The day of 19

No. 65

[CH. XXIV.]

FORM OF PETITION IN AN ACTION OR APPLICATION OF SUMMARY PROCEDURE

In the District Court of 19

(Where the application is not incidental to a pending action, set out. as in a plaint, name and description. &c., of parties, thus:)

Between A. B. &c., petitioner, and C. D. &c., respondent.

(Where the application is incidental to a pending action say—)

In the matter of an action between (set out the title) and (in the matter of A. B., deceased, or as the case may be.)

The humble petition of the above-named (plaintiffs, or as the case may be) showeth as follows :

(Set out a plain and concise statement of the facts constituting the ground of application and its circumstances, and of the petitioner's right to make it, e.g. :)

1.—That the said A. B; of lately deceased, was one of the plaintiffs in the above-named action.

2.—That the said A. B. died on the day of 19, (and go on to show that the right of action survives to the remaining plaintiff alone).

(Your petitioner therefore humbly prays for an order that the above-named action do proceed at the instance of the said petitioner, or for such other order in the premises as to this court seems meet. And your petitioner will ever, &c.)

[Annex to the petition any affidavits, &c. (see section 376), requisite to furnish prima facie proof of the material facts set out.]

No. 66

[Section 377.]

FORM OR (a) ORDER "NISI" OR(fr) INTERLOCUTORY ORDER ON A PETITION IN AN ACTION OF SUMMARY PROCEDURE

(Title.)

This matter coming on for disposal before (name and office of Judge) on the day of 19 after reading (the affidavit of or as the case may be) and hearing the evidence of (as the case is) (recite petition and exhibits, &c., adduced in support).

(a) [It is ordered that (slate the order, as that the said action do proceed at the instance of the said), unless sufficient cause be shown to the contrary on the day of 19.....]

(b) [It is ordered that the day of 19 be and the same is hereby appointed for the determination of the matter in the said petition contained, and that the said (respondent) be heard in opposition to the prayer of the same if he appear before this court on the said day.]

In the alternative (a)—

[It is further ordered that the (respondent) do pay to the (petitioner) his costs of, and occasioned by, this application.]

(Signed, &c.. as in No. 41.)

No. 67

FORM OF ORDER REFUSING PETITION WHERE GROUNDS ADDUCED INSUFFICIENT TO SHOW PRIMA FACIE CASE

[Section 380.]

(Proceed as in No. 66. and the order will be—)

It is ordered that the prayer of the said petition be and the same is hereby refused.

No. 68

FORM OF ORDER DISMISSING PETITION WHERE PETITIONER DOES NOT APPEAR

[Section 382.]

(Proceed as in No. 66, reciting the order made under (b) of section 377. and continue—)

And the said (petitioner) not having appeared either in person or by counsel before this court in support of his said petition:

It is ordered that the said petition be and the same is hereby dismissed. [It is further ordered that the said (petitioner) do pay to the said (respondent) his costs of, and occasioned by, this application-]

No. 69

FORM OF ORDER WHERE RESPONDENT DOES NOT APPEAR

[Section 383.]

(Proceed as in 66. reciting the order made under section 377, and continue—)

And the petitioner having appeared (in person, or by registered attorney or by counsel) in support of his said petition, and the respondent not having appeared either in person or by registered attorney or counsel, although the said recited order was duly served upon him as appears by the (oath or affidavit) of

(Then, if the order is an order " nisi " under section 377 (a)—)

The above order is made absolute.

(But if the order was an interlocutory order under section 377 (b)—)

It is ordered (state the order : and, where costs have been prayed in the petition, and the court thinks right to allow them, further order as to costs).

No. 70

FORM OF ORDER WHERE BOTH PARTIES APPEAR

[Sections 384, 386, and 387.]

(Proceed as in No. 66, reciting the order under section 377, and continue—) And both parties appearing (in person, or as may be) and (the affidavit of having been read) and (the evidence of taken) and both parties heard : It is ordered on the application of (petitioner) that this matter be adjourned to the day of 19 to enable the said (petitioner) to adduce additional evidence in support of his said petition, or that the questions or issues of fact arising in this matter be tried and determined.

The questions or issues of fact to be so tried and determined on such day are:

- 1.—Whether, Ac.
2.—Whether, &c.

(Formal conclusion as in No. 41)

No. 71

[Section 398.]

FORM OF SUMMONS TO LEGAL REPRESENTATIVE OF A DECEASED DEFENDANT

(Title.)

To..... Of.....

Whereas the above-named has, as plaintiff, instilued the above-named action in this court against the above-named who has since deceased, and has made an application to the court alleging you to be the legal representative of the said deceased and desiring that you be made defendant in his stead : You arc hereby summoned to attend (in person, or by registered attorney, or in either way) in this court at o'clock of the forenoon on the day of 19 , to defend the said action, and in default of your so appearing the said action will be heard and determined in your absence.

By order of court,

(Signed) , Registrar.

The d day o f , 19

No. 72

[Section 406.]

FORM OF APPLICATION FOR PERMISSION TO WITHDRAW FROM AN ACTION

(Title.)

I, plaintiff in the above-named action, hereby request the permission of the court to withdraw from the said action, with liberty to bring a fresh action in the same matter; on the ground (slate sufficient grounds/or withdrawing).

Plaintiff.

The day o l , 19

No. 73

[Section 410.]

FORM OF NOTICE OF PAYMENT INTO COURT

(Title.)

To (plaintiff).

Take notice thai the defendant in the above-named action has paid into court.....rupees, and that that sum is enough to satisfy the plaintiffs claim (or the plaintiffs claim for..... ..).

(Signed) , Party (or Registered Attorney).

The day o f 19

No. 74

[Section 416.]

FORM OF SECURITY FOR DEFENDANTS COSTS WHERE PLAINTIFF RESIDES OUT OF JURISDICTION OF THE COURT

(Title.)

Know all men by these presents that we, A. B., of and C. D., of are jointly and severally held and firmly bound to E. F., (here insert name of Registrar of cowl, or as ihe case is) in the penal sum of rupees (the sum mentioned in the order) to be paid to the said E. F., or his

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successors in the said office of *(as the case is)*, for which payment to be well and faithfully made we bind ourselves and each of us, our and each of our heirs, executors, and administrators, firmly by these presents, hereby renouncing, &c.

Dated this..... day of..... 19

Whereas by an order of the said Court of dated the day of 19 made in the above-named action, wherein is plaintiff and is defendant, it was, on the application of the said defendant (or *as the case may be*), ordered (*recite the mandatory part of the order*): And whereas the above-bounden A. B. and C. D. have, at the request of the said (*person required to give security*), agreed to enter into the above-written obligation subject to the condition hereinafter contained.

Now the condition of the above-written obligation is such that if the above-bounden A. B. and C. D., or either of them, their or either of their heirs, executors, or administrators, do and shall well and truly pay or cause to be paid to the defendant in the said action, all such costs as the said court shall think fit to award to the said defendant in the said action, then the above-written obligation to be void, or else to remain in full force and virtue.

A. B.
C.D.

Signed by the above-bounden A. B. and C. D. in the presence of

X. Y.. of—.
Y. Z.. of—.

(Use the same form with alterations where defendant resides outside Sri Lanka.)

No- 75

FORMAL PARTS OF AN AFFIDAVIT IN AN ACTION

[Section 438.]

In the Supreme Court of the Republic of Sri Lanka.

(or)

District Court 1

In the of Colombo (or *as the case may be*).

Primary Court

(Title.)

I, A. B. (*full name and description of deponent, and if a married woman, full name and description of her husband*), of (*place of residence*) (*and if a party, say so, and in what capacity*), being a Buddhist (*or being a Hindu or being a Muslim etc., as the case may be, or having a conscientious objection to making an oath*) solemnly, sincerely, and truly affirm and declare (*or if the deponent is a Christian, make oath and say*) as follows :—

Affirmed (or Sworn), [or *if there are more than one deponent, Affirmed (or Sworn) by the deponents A. B.*] at this day of....., 19

Before me (name and office of person administering the affirmation or oath).

[Section 461.]

*No.79

FORM OF NOTICE TO ATTORNEY-GENERAL. MINISTER, DEPUTY MINISTER, OR PUBLIC OFFICER OF THE INSTITUTION OF AN ACTION

To the Hon. the Attorney-General (or the Minister or Deputy Minister or public officer concerned).

Take notice that I, A. B.; of am about to institute an action against you as representing the State (or, in the case of a Minister or Deputy Minister or public officer, in your official capacity as) for (state the cause of action and the relief claimed).

(Signed) A. B.

The day of 19

(Where the notice is issued by an attorney-at-law, alter the wording accordingly.)

No. 80

[Section 503.]

FORM OF AUTHORITY TO SUE OR DEFEND GIVEN BY A MEMBER OF A MILITARY, NAVAL OR AIR FORCE

I, A. B., presently of being a (rank) in the Sri Lanka (Army or Navy or Air Force, as the case may be), actually serving Government in such capacity, and unable to obtain leave for the purpose of (prosecuting or defending) a certain action brought (by or against) me (against or by) one of in the Court of,, for (state what for), do hereby authorize C, D., of to (sue or defend) for me and on my behalf in the said action, and for that purpose to make every appearance and application, and do every act which I might if present make or do, or be required or authorized by law to make or do, therein.

(Signed) A. B.

The day of 19

In the presence of

(Signed) E. F. (the Commanding Officer, or if the party himself is the Commanding Officer, then the next subordinate in rank to him. Where the party is in staff employ, the witness must be the head

Witnesses : of the office.)

No. 81

[Section 516.]

FORM OF AFFIDAVIT TO BE PRODUCED WITH WILL

(Formal parts as in No. 75.)

1.—I knew and was well acquainted with A. B. of, who died on the day of 19 at

2.—The said A. B. duly executed his last will dated the day of 19

3.—The said A. B. deposited his said-will in my custody (or, if the case is so, state the circumstances under which the deponent found the will).

4.—The said testator has left property within the jurisdiction of this (or any other, as the case may be) court of the nature and value shown in the schedule hereto annexed (or has left no property in Sri Lanka).

5.—I produce the said will.

(Formal conclusion.)

(The Schedule.)

*Forms Nos. 76, 77 and 78 are omitted consequent on the repeal of sections 443, 447 and 454 by Law No. 20 of 1977.

No. 82

FORM OF APPLICATION BY WAY OF SUMMARY PROCEDURE FOR PROBATE OR FOR ADMINISTRATION WITH THE WILL ANNEXED

[Sections 518—525.]

In the matter of the will of A. B.; deceased.

C. D., of..... petitioner-

(For respondent, name any person likely or competent to oppose the application.)

(Formal parts as in No. 65)

- 1.—A. B, late of..... died on the..... day of..... 19
2.—The said A. B. duly executed his last will dated the..... day of..... 19....
3.—To the best of your petitioner's knowledge the heirs of the said A. B., deceased, are:
4.—Full and true particulars of the property left by the deceased, so far as your petitioner has been able to ascertain the same, are contained in the schedule hereto annexed.
5.—Your petitioner claims as (executor, creditor, Ac., as the case is).

Your petitioner therefore humbly prays for an order declaring the said will proved, and that he may be declared executor of the said will. and that probate thereof may be issued to him accordingly (or where the case is so, for a grant of administration with copy of the will annexed, &c.). (If a limited grant is asked for, set out lo thai effect.)

(Formal conclusion.)

(The Schedule.)

(Support paragraphs 2 and 5 by affidavit or oral evidence. Where no respondent is named, state the reasons to be thai no opposition is apprehended, and support with an affidavit.)

No. 83

FORM OF APPLICATION FOR ADMINISTRATION WHERE THERE IS NO WILL

[Section 530.]

(Formal parts.)

(Proceed as in last form, substituting a statement that the will cannot be found, or that there is none. for paragraph 2.)

Your petitioner therefore humbly prays for an order declaring that he is entitled as such (creditor, or as the case is) to administer the estate of the said intestate, and directing that letters of administration of the said estate be granted to him accordingly. (If a limited grant is asked for, set out to that effect.)

(Formal conclusion.)

No. 84

FORM OF ORDER "NISI" DECLARING WILL PROVED, AC.

[Sections 526—529.]

(Title.)

This matter coming on for disposal before (name and office oj Judge), on the..... day of..... 19.... (in the presence of..... on the part of the petitioner, and..... on the part of the respondent), (and the affidavit of..... dated..... having been read, and the evidence of..... taken), (and all parties heard):

It is ordered that the will of deceased, dated (and now deposited in this court, or as the case is), be and the same is hereby declared proved, unless (the respondent or any person on whom the court directs the order to be served) shall, on or before the day of 19 show sufficient cause to the satisfaction of this court to the contrary.

It is further declared that the said (petitioner) is the executor named in the said will, and that he is entitled to have probate of the same issued to him accordingly (or declare the petitioner's status where he is not executor, and state that he is entitled to administration with copy of the will annexed), unless, &c.

(Signed. Ac.)

(Where there is no respondent, the order may be absolute in the first instance.)

(Where there is no will. this form can be adapted. In either case the order is to be served on the respondent or on any other person on whom the court directs service. Where the grant is to be limited say so, and how far.)

[§ 125, Law 20 of 1977.]

No. 84A

FORM OF NOTICE OF OROER "NISI"

In the District Court of
In the matter of the Last Will/Intestate
Estate of the late
. Deceased
. Petitioner.

Testamentary] No
Jurisdiction]

It is hereby notified that the above-numbered testamentary action has been instituted in the above court for proof of the Last Will/the administration of the Estate of the above-named deceased and order nisi has been entered accordingly therein.

Any person interested is hereby required to appear before this court on the day of
. 19 at o'clock in the forenoon and show cause, if any, why the order nisi so entered should not be made absolute.

By order of court.

Registrar.

Dated this.....day of.....19...

[§125, Law 20 of 1977.]

No. 84B

FORM OF NOTICE OF ORDER ABSOLUTE IN THE FIRST INSTANCE

In the District Court of
In the matter of the Last Will of the late
. Deceased
. Petitioner.

Testamentary
Jurisdiction

It is hereby notified that the above-nimbered action has been instituted in the above court for proof of the Last Will of the above-named deceased and order absolute in the first instance has been entered accordingly therein on the day of 19

By order of court,

Registrar.

Dated this day of. 19.

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No. 85

FORM OF ORDER MAKING ABSOLUTE OR DISCHARGING THE ORDER "NISI"

[Section 534.]

(Title.)

This matter coming on for final determination before ... on ... in the presence of ... (and the affidavits of ... having been read and the evidence of ... taken), (and all parties heard):

It is ordered [that the order of this court made on the ... day of ... 19 ..., be made absolute, and that probate of the will of ... be issued to ... (or as the case may be)} or (that the order ... be discharged and the petition of ... be and the same is hereby dismissed).

(And it appearing to this court that ... (respondent or objector) has established his right thereto, it is further ordered that (probate or administration, as the case may be) be issued to the said ... accordingly.)

(Signed. &c.)

(When the grant is to be limited, say so. and how far.)

No. 86

FORM OF PROBATE

[Section 519.]

(Title.)

530,&c

In the District Court of.

Be it known to all men that on the ... day of ... 19 ... the last will and testament of ... deceased, a copy of which hereunto annexed was exhibited, read, and proved before this court, and administration of all the property and estate, rights and credits, of the deceased was and is hereby committed to (name and designation), the executor in the said last will and testament named ; the said ... being first (affirmed or sworn) faithfully to execute the said will by paying the debts and legacies of the deceased testator as far as the property will extend and the law will bind, and also to exhibit into this court a true full, and perfect inventory of the said property on or before the ... day of ... 19 ... and to file a true and just account of ... executorship on or before the ... day of ... 19 ...

Given under my hand and the seal of the Court this ... day of ... 19 ...

(Signed)..... District Judge.

(When probate is limited, insert the limitation.)

No. 87

FORM OF LETTERS OF ADMINISTRATION (WITH THE WILL ANNEXED AND OTHERWISE)

[Sections 519, 530, &c.]

In the District Court of.....

To (widow, widower, next of kin. Public Trustee, creditor, &c.. as the case may be).

Whereas ... of ... deceased, lately departed this life (leaving a will which has been duly proved in this court, a copy whereof is hereunto annexed ; and whereas no executor is named in that will, or without leaving any wilt);

You are therefore fully empowered and authorized by these presents to administer and faithfully dispose of the properly and estate, rights and credits, of the said deceased, and to demand and recover whatever debts may belong to ... estate, and to pay whatever debts the said deceased did owe (and also the legacies contained in the said will), so far as such property and estate, rights and credits, shall extend, you having been already (affirmed or sworn) well and faithfully to administer the same and to render a true and perfect inventory of all the said properly and estate, rights and credits, to this court on or before the ... day of ... 19 ... next, and also a true and just account of your administration thereof on or before the

..... day of 19 And you are therefore by these presents deputed and constituted administrator (with a copy of the will annexed) of all the property and estate, rights and credits, of the said deceased (You are nevertheless hereby prohibited from selling any immovable property of the estate unless you shall be specially authorized by the court so to do).

(Signed. &c.).....

No. 88

[Section 538.] FORM OF OATH BY EXECUTOR OR ADMINISTRATOR REFERRED TO IN THE TWO PRECEDING FORMS

You solemnly, sincerely and truly affirm and declare (or make oath and say) that you believe the writing now produced to you, bearing date and marked to be the last will and testament of deceased. (That you are the executor named therein, where the case is so.) That you will faithfully execute the said will (or that you will administer and faithfully dispose of the property and estate, rights and credits of deceased) by paying the debts (and legacies) of the deceased as far as the property will extend and the law bind, and by demanding and recovering whatever debts may belong to estate. That you will exhibit into this court a true, full, and perfect inventory of all the property, movable and immovable, and all the rights and credits of the deceased, on or before the day of 19 and that you will file a true account of your executorship (or administration) on or before the day of 19

No. 89

[Section 542.] FORM OF AFFIDAVIT WHERE DECEASED IS INTESTATE

(Formal pans as in No. 75.)

1.—I am (widow, next of kin. &c.) of, late of ... deceased, and knew and was well acquainted with the said during his lifetime.
2.—The said died on the day of ,19.....at without having made a will, and leaving property within the jurisdiction of, court of the nature and value shown in the schedule hereto annexed.

(Formal conclusion.)

(Schedule.)

No. 90

[Sections 521, 538, and 541.] FORM OF SECURITY BOND TO BE GIVEN BY EXECUTOR OR ADMINISTRATOR WHEN REQUIRED

In the District Court of.....

Know all men by these presents that we (executor or administrator), and and (sureties), are held and firmly bound unto Registrar of the District Court of (or to the Registrar of the District Court of for the time being), the said in the sum of rupees, and the said and in the sum of rupees each, to be paid to the said (Registrar or Registrar for the time being), for which payment well and truly to be made we and each of us do hereby bind ourselves, our heirs, executors, and administrators firmly by these presents, hereby renouncing

Whereas by order of the said court of the day of 19, it is ordered that (probate of the will or letters of administration of the property and estate of deceased) be granted to the said (executor or administrator) on his giving security for the due (execution or administration) thereof:

And whereas the estate of the said deceased has been appraised and valued at the sum of rupees:

Now the condition of this obligation is such, that if the above-bounden (executor or administrator) do render into this court a true and perfect inventory of all the property and estate, rights and credits, of the said deceased, which have or shall come to the possession or knowledge of the said or of any other

person for him, on or before the day of 19 , and shall well and truly administer the same; that is to say, shall pay all and singular the debts of the said deceased which (he) did owe at (his) decease fairly and justly according to their respective degrees or in equal proportion if the estate should prove insufficient to satisfy all the debts in full (and shall then pay the legacies contained in the said will annexed to the said letters of administration) so far as the said property will extend and the law charge (him) and further shall render to this court a true and just account of (his) said administration on or before the day of 19 , and shall deliver and pay over the rest and residue of the said property and estate, rights and credits, which shall be found remaining upon the said administration, to the person or persons lawfully, entitled to the same : Then this obligation to be void and of none effect, otherwise to remain in full force.

(Dated and signed by all the obligors.)

No. 91

FORM OF LETTERS "AD BONA COLLIGENDA"

[Section 546.]

In the District Court of ...
To and

Whereas it has been verified to this court that late of died leaving property within the jurisdiction of this court: You and each of you are hereby empowered and authorized to take, collect, demand, and receive all and every the said property, and the rents, issues, and profits thereof, and safely to keep the same until administration thereof be granted in due form of law to such person or persons as shall appear entitled to the same, or until you receive further orders from this court in the premises.

By order of court,

.....Registrar.

The day of 19

No. 92

FORM OF VERIFICATION OF INVENTORY AND VALUATION

[Section 538.]

I, A. B., of executor of the last will of deceased (or administrator of the estate, &c., if so) solemnly, sincerely, and truly affirm and declare (or make oath and say) as follows :

1.—To the best of my knowledge, information, and belief, the above-written inventory contains a full, true, and correct account of all the property, movable and immovable, and rights and credits of the said - '•, deceased, so far as I have been able with due diligence to ascertain the Same-

2,—I have made a careful estimate and valuation of all the property, the particulars of which are set forth and contained in the said inventory, and to the best of my judgment and belief the several sums respectively set opposite to the several items in the said inventory fully and fairly represent the present values of the items to which they are so respectively set opposite.

No. 93

FORM OF "CAVEAT"

[Section 535.]

In the District Court of ,

Let nothing be done in the estate and effects of late of deceased, who died on the day of 19 , at unknown to (Mr. of Registered Attorney for parties having interest, or as the case may be).

(Signed by the party, and dated.)

[§125, Law 20 of 1977.]

No. 93A

[Section 554K.]

FORM OF ORDER *nisi* DECLARING ESTATE INSOLVENT

In the District Court of

In the matter of the Last Will/ Intestate Estate of the late

Deceased.

..... Petitioner.

vs.

..... Respondents.

Testamentary No. Jurisdiction

(1) Name and office of Judge. This matter coming on for disposal before (1) on the day of 19 (in the presence of on the part of the petitioner, and on the part of the respondents) (and the affidavit of dated having been read and the evidence of taken), (and all parties heard).

It is declared that the estate of deceased be administered as an insolvent estate in accordance with the provisions of Chapter XXXVIII A of the Civil Procedure Code unless the respondents or any person on whom the Court directs the order to be served shall on or before the day of 19 show sufficient cause to the satisfaction of this Court to the contrary.

(Signed)..... District Judge.

Dated this day of 19.....

[§125, Law 20 of 1977.]

No. 93B

[Section 554L.]

FORM OF NOTICE OF ORDER *nisi* DECLARING ESTATE INSOLVENT

In the District Court of

In the matter of the Last Will/ Intestate Estate of the late

.....Deceased.

..... Petitioner.

Testamentary No. Jurisdiction

It is hereby notified that the above-numbered testamentary action has been instituted in the above court for the administration of the estate of the above-named deceased as an insolvent estate and order *nisi* has been entered accordingly therein.

Any person interested is hereby required to appear before this court on the day of 19 at o'clock in the forenoon and show cause, if any, why the order *nisi* so entered should not be made absolute.

By order of court,

Registrar.

Dated this,, day of 19 .

CIVIL PROCEDURE CODE

[Cap. 105

No. 93C

[§125, Law 20
of 1977.]

FORM OF ORDER ABSOLUTE DECLARING ESTATE INSOLVENT

[Section 554N.]

In the District Court of
In the matter of the Last Will/Intestate Estate
of the late
.....-Deceased.
..... Petitioner.
vs.
..... Respondents.

Testamentary No.
Jurisdiction

It is hereby notified that the order *nisi* entered on in the above-numbered
testamentary action has been made absolute on

By order of court,

Registrar.

Dated this day of 19.....

No. 94

FORM OF CERTIFICATE OF CURATORSHIP AND GUARDIANSHIP

[CH. XL,]

In the Family Court of

In the matter of the estate of A. 5. a minor.

1.—Whereas this court has, under the provisions of Chapter XL of the Civil Procedure Code, appointed you,
..... of to be curator of the estate of a minor, until the said
..... shall have attained the age of twenty-one years ;

You are hereby entrusted with the charge of the property of the said; you may exercise the
same powers in the management of the estate as might have been exercised by the said if not a
minor ; and you may collect and pay all just claims, debts, and liabilities due to or by the estate of the said

(2.—You are authorized to retain from the estate of the said rupees a
month assigned by this court as a suitable remuneration for the trouble and responsibility connected with the
discharge of your trust).

3.—You are to keep regular accounts of all moneys received or disbursed by you on account of the estate, and
to preserve all vouchers and other documents necessary to prove the correctness of such accounts.

4.—In the event of this certificate being recalled under the provisions of section 591 of the said Code, you will be
required to make over the property in your hands to your duly appointed successor, and to account to such your
successor for all sums of money or other property received or disbursed by you.

5.—In the event of your desiring to resign your trust, this court will give you a discharge therefrom on your
accounting to your duly appointed successor for all sums of money or other property received or disbursed by you,
and on your making over the property in your hands to such your successor.

(6.—You are also hereby appointed guardian of the person of the said and are authorized
to retain from the estate of the said the sum of rupees a month assigned by
this court as a suitable remuneration for the trouble and responsibility connected with the discharge of your trust.)

7.—You are bound to provide for the education of the said _____ in a suitable manner under the general superintendence and control of this court.

8.—You are authorized to expend the sum of _____ rupees a month fixed by this court as an allowance for the maintenance and education of the said _____ (Here may be inserted, if the court is satisfied of its expediency, a direction to raise the allowance out of corpus.)

9.—You may, for any sufficient cause, be removed from your trust by this court.

_____, Judge of the Family Court.

(When some person other than the curator is appointed guardian of the person, the above form must be modified. The heading will be the same; the recital will be that the appointee is entrusted with the charge of the person and maintenance (and education) of/he minor : paragraph 2 of the last form must be adopted thus : " You are authorized to receive from the curator," Ac.; paragraphs 7, 8 and 9 may be used as they stand. In this event the preceding form may be easily adapted.)

No. 95

[CH. XLII.]
[Section 608.]

FORM OF DECREE FOR SEPARATION "A MENSA ET THORO"

(Begin as in an ordinary decree, see No. 41. and continue—)

And it appearing to the court that the defendant has been guilty of (state act justifying separation) so as to render it unsafe and improper under existing circumstances for the plaintiff to cohabit with him or be under his dominion and control: It is thereupon ordered and decreed that the plaintiff and defendant be separated from bed and board for ever : Provided, however, that the parties may at any time hereafter, by their joint and mutually free and voluntary act, apply to this court for leave to be discharged from this decretal order. And it is hereby declared that it will be criminal and an act void in law for either of them, during the life of the other, to contract matrimony with any other person. [And it is further decreed that the plaintiff, according to the prayer of plaint, be entitled to, and charged with the custody, care, and education of (mention the children) in the pleadings mentioned :

Provided always that this order for the custody, care and education of the said infant (infants) may at any time hereafter be modified, varied, or annulled upon sufficient cause shown.] [And it is further decreed that the defendant do pay to the plaintiff (set out amount of alimony decreed, and manner of payment, &c.) to be applied towards the maintenance of the plaintiff and her said _____ and that this allowance is to continue until further order, and be subject to variation as future circumstances may require.] And it is further ordered (state order as to costs).

(Signature, &c.)

No. 96

[Section 607.]

FORM OF DECREE OF NULLITY OF MARRIAGE

(Proceed as in last form. and continue—)

And it appearing to this court that on the _____ day of _____ 19 _____, a pretended marriage was had and solemnized between the said A. B. C. and E. F. G; otherwise called E. F. C., but that at the lime of the solemnization of the said pretended marriage (she, the said E. F. G., otherwise called E. F. C., was insane and incapable of entering into such a contract, or state other grounds making the marriage a nullity):

It is thereupon pronounced, declared, and decreed that the said pretended marriage so had and solemnized between the said (names as before) was and is wholly and absolutely null and void to all intents and purposes whatsoever: And that the said A. B. .C. was, and is, free from all bond of marriage with the said E. F. G; otherwise called E. F. C. (Stale order as to costs.)

(Signature, &c.)

No. 97

FORM OF DECREE FOR DIVORCE A VWCULO MATRIMOMI

[CH. XLII]
[Section 602.]

Use the necessary parts of the foregoing forms. The decree will be: That the bonds of matrimony heretofore entered into between the said and be and are hereby set aside, dissolved, and annulled, and that the woman may resume her maiden name (and be restored to the rights, Ac., of a feme-sole).

The form given under No. 95 may be adapted for the orders as to custody, Ac., of children, alimony, costs, Ac.

No.101

FORM OF WARRANT OF ARREST BEFORE JUDGMENT

[Section 650.]

(Title.)

To the Fiscal of.

Arrest and seize the above-named defendant, and keep him safely, so that you have his body before this court forthwith to answer the above-named plaintiff in an action to recover (as the case may be), whereof the said plaintiff has filed his plaint in this court, unless and until the said defendant shall give you good and sufficient security to the amount of rupees (or shall deposit, &c.. see section 650) to appear and answer the said plaintiffs claim, and to abide by and perform the judgment of this court, or to surrender himself or be surrendered to be charged in execution for the same ; and on his giving such security you are hereby authorized to discharge the said defendant. And have here this mandate on the return day thereof.

(Signed)

Memorandum.—This warrant is to be executed within one calendar month from the date thereof, including the day of such date, and sot afterwards.

No.102

FORM OF SECURITY, AC., TO BE GIVEN BY DEFENDANT ARRESTED BEFORE JUDGMENT

[Section 651.]

(Title.)

Know all men by these presents that we and Ac. (making the Fiscal the obligee and proceeding according to the forms Nos. 74 and 90).

The condition, Ac., is, that if above-bouden do appear before the Court of on the day of 19 to appear and answer and abide by and perform the judgment, Ac. (describe claim), then this obligation, Ac.

No. 102

FORM OF BAIL ON APPEARANCE

[Section 651.]

Bond, as in last preceding form, making the Registrar of the court obligee. The condition is to appear and answer, Ac., in terms of section 651.

* Forms Nos. 98 and 99 are omitted as sections 645 and 646 have been repealed by Act No. 7 of 1949.

No. 103

[Section 651.]

FORM OF WARRANT OF COMMITMENT

(Title.)

To the Fiscal of. Court of.....

Receive into your custody the body of taken under a warrant of arrest at the suit of and keep him safely until he give good and sufficient security in the sum of rupees to abide by and perform the judgment of this court in the premises, and pay all such sum or sums of money as shall be decreed, or surrender himself or be surrendered to be charged in execution for the same.

(Signed, &c.).....

No. 104

[Section 653.]

FORM OF MANDATE OF SEQUESTRATION

(Title.)

Whereas it appears that is fraudulently alienating his property, &c. (set out the necessary averments), and the plaintiff above named has verified his demand to the satisfaction of this court; you are therefore commanded (proceed as in No. 38. with the necessary modifications).

No. 105

[Section 654.]

FORM OF SECURITY TO BE GIVEN BY PLAINTIFF

Bond in ordinary form. the Registrar being obligee : the condition is to pay all sums of money awarded by the court 10 defendant as costs, damages, or otherwise sustained by reason of arrest or sequestration.

No.106

(Section 676.)

FORM OF AUTHORITY TO REGISTERED ATTORNEYS TO APPLY FOR REFERENCE TO ARBITRATION

(Title.)

Whereas we (plaintiff and defendant) are desirous that (here stale the particular mailer sought to be referred) in the action above specified, should be referred to the final decision of the arbitrator (or arbitrators) herein below named, namely, (names):

Therefore we, the said and do hereby specially authorize our registered attorneys, that is to say, on the part of the said plaintiff, and on the part of the said defendant, to apply to the said court for an order of reference accordingly.

Witness our hands, this, &c. Plaintiff.

Witnesses. Defendant.

No. 107

[Section 677.]

FORM OF ORDER OF COURT REFERRING MATTER TO ARBITRATION

(Title.)

Upon (&c.), it is ordered, by and with the consent of all parties, that (stale the matter) in difference between them in this action (including all dealings and transactions between 3\ parties) be referred to the final determination of and who are to make their award in writing and submit the same to this court, together with all proceedings, depositions, and exhibits in this action, within from the dale hereof. And it is further ordered, by and with the like consent, that if the said arbitrators are unable to agree upon any award in the premises within the time so fixed for the making of their award [stale whether any particular umpire is to he appointed, or thai the arbitrators are empowered to appoint an umpire, or as the case may be; and in case an umpire is appointed, limit the lime for his award). And it is further ordered, by

and with, &c., that the said arbitrators (or umpire) shall be at liberty to examine the parties and their witnesses upon oath or affirmation which they (or he) are (is) empowered to administer, and shall have all such powers or authorities as are vested in arbitrators (and umpires) under the Civil Procedure Code, including therein power to call for all books of account they (or he) may consider necessary. And it is further, &c., that the costs of this action, together with the costs of this reference up to and including the award of the said arbitrators (or umpire), and the enforcement thereof, do abide the result of the finding of the said arbitrators (or umpire). And it is further, &c., that the said arbitrators (or umpire) be at liberty to appoint a competent accountant to assist them (or him) in the investigation of the several matters so referred as aforesaid, and that the remuneration of such accountant and other charges attending the same be in the discretion of the said arbitrators (or umpire).

(Signed as an order.)

No. 108

FORM OF ORDER OF REFERENCE ON THE ABOVE

[Section 677.]

(Title.)

To.....and.....

Whereas the above-named plaintiff and defendant have agreed to refer all matters in difference between them (or state the particular matter) in the above-named action to your arbitration and award: You are hereby appointed arbitrators accordingly to determine all the said matters in difference between the parties, and with power to determine which party shall pay the costs, &c. (Direct the delivery of the award as in preceding form; give power to appoint an umpire in cases of difference, specifying particular umpire if necessary; give power to appoint an accountant as in preceding form, and continue :) Process to compel the attendance before you of any witnesses, or for the production of any documents which you may desire to examine or inspect, will be issued by this court on your application, and you are empowered to administer to such witnesses oath or affirmation.

Given, &c.

.....Judge.

No. 109

FORM OF NOTICE TO ARBITRATORS TO APPOINT AN UMPIRE

[Section 680.]

(Title.)

To (arbitrators).

Whereas by an order of court made in the above-named action on the day of 19 you were appointed arbitrators for the decision of the matters therewith referred to you, and were by the terms of the said order of reference empowered to appoint an umpire in the event of your failing to agree upon an award within the time therein limited, and such time has elapsed and no umpire has yet been appointed by you:

This is to give notice that I hereby require you to appoint an umpire forthwith.

(Signed and dated)

Party Plaintiff (or Defendant).

No. 110

FORM OF NOTICE OF FILING OF AWARD

[Section 685.]

(Title.)

To (parties).

This is to give you notice that the arbitrators (or umpire) appointed in the above action have (has) this day filed their (his) award in this court.

Given, &c.

.....Judge.

No. 111

[Section 712.]

FORM OF CITATION

(Title.)

To

Whereas one A. B. (executor of the last will of deceased or administrator of the estate and effects of deceased), has presented a petition to this court praying that you may be cited to attend an inquiry whether (set out shortly the substance of the application); and whereas the said A. B. has satisfied this court that there are reasonable grounds for such inquiry: You are hereby cited and required personally to be and appear before this court on the day of 19 at o'clock of the forenoon, then and there to answer (set out what the subject of the inquiry is).

(Signed, &c.) District Judge.

No. 112

[Section 713.]

FORM OF ORDER TO BE ANNEXED TO, OR ENDORSED ON, THE PRECEDING

(Title.)

On reading and filing the petition of A. B., dated (and on reading the affidavit, &c., and hearing the evidence, &c.): It is ordered that a citation returnable on the day of 19 at o'clock of the forenoon, do issue to requiring him to (set out as in last form).

(Signed. Ac.) District Judge.

No. 113

[Section 718.]

FORM OF AFFIDAVIT OF FAILURE TO RETURN INVENTORY

(Formal part as in No. 75.)

1.—(Allege residence and interest in estate.)

2.—That (probate was granted of the will or letters of administration issued of the estate and effects) of , deceased, by a decree of this court dated, &c., to one of

3.—That more than has elapsed since the said appointment, and the said has not returned any inventory of the property and effects of the said (or any sufficient inventory, &c., specifying she defects).

(Formal conclusion.)

No. 114

[Section 720.]

FORM OF PETITION FOR PAYMENT OF DEBT

(Title.)

The petition of A. B- showeth as follows :—

I.—Your petitioner resides at in and is a creditor of the estate of deceased, late of (probate of whose will was, or letters of administration to whose estate and effects were) duly issued to one of by a decree of this court dated the day of 19; and more than twelve months have elapsed since such (grant or letters).

2.—That the said has tiled an inventory of the property and effects of the said

3.—(Allege claims, as e.g. ;) On the day of 19 your petitioner, in an action brought by him in the Court of against the said as (execu'nr or administrator) of the said upon a debt then justly due to him from the estate of the said deceased, recovered a judgment duly given by the said court against the said as such (executor, &c.) fur the sum of rupees. And no part of the same has been paid (except.....).

4.—Your petitioner is informed and believes that the said has sufficient assets in hand applicable to the payment of your petitioner's claim (or to pay one of thereof), and that the same can be so applied without injuriously affecting the rights of others entitled to priority or equality of payment with your petitioner.

5.—Your petitioner has applied to the said for payment of his said claim, and the same has not been paid.

Wherefore, Ac., that a decree be made requiring the said to (render an account of his proceedings and) pay the said claim, and that the said be cited to show cause why he should not pay the same.

(Conclusion.)

No. 115

FORM WHERE APPLICANT IS A LEGATEE

[Section 720.]

Proceed as in last preceding form, substituting in paragraph 1 : " Legatee named in the will of " for " creditor of the estate of "; and add " and by the said will a legacy of rupees was bequeathed to your petitioner. " Omit paragraph 3. In paragraphs 4 and 5 for "claim " substitute "legacy (or distributive share) "; and in the prayer make the corresponding alterations.

No. 116

FORM OF CITATION ON PRECEDING APPLICATIONS

[Section 721.]

(Title as in No. III)

Proceed as in No. III. The citation is "to show cause why a decree should not be made directing you as (executor or administrator, &c.) of deceased, to pay the claim of against the estate of the said deceased in the sum of rupees

No. 117

FORM OF DECREE ON THE PRECEDING CITATION

[Section 721.]

(Title.)

A. B. of having presented to this court a petition dated the day of 19, asking that a decree be made herein directing the said (executor, &c.) to pay (stale claim : and if petition was by a creditor, add statement of issur and return of service of citation). And it having been proved to the satisfaction of this court by the said petition and the affidavit of. &c., that the assets of the said deceased in the hand of the said exceed the debt (and when' the petitioner is a creditor : and that the petition may be granted without injuriously affecting the rights of others entitled to priority or equality of payment or satisfaction) • It is decreed that the said the (executor, &c.) of the said deceased, pay to the said A. B. (the full) amount of his said claim, to wit, rupees, with interest thereon at per centum per annum from the day of 19..., the whole amounting to rupees

(Signed)..... District Judge.

[Sections 723 et seq.]

FORM OF ACCOUNT TO BE FILED BY EXECUTOR OR ADMINISTRATOR

(Title.)

(The only difference between a voluntary account and an account ordered by the court will be that the former will be headed " In the matter of the voluntary account of executor (or administrator, &c.) of deceased, " and the latter " In the matter of the judicial settlement of the account of ", &c.)

To the District Court of

I, A. B., of do hereby render the following account of my proceedings as executor of the will (or administrator, &c.) of late of deceased (if not brought down to date, add " to and including the day of last ").

On the day of 19 , (recite grant of probate or administration) were issued to me.

I subsequently caused an inventory of the property and estate of the deceased to be filed in this court, which property amounts as therein set forth, by appraisalment, to rupees.

Schedule A hereto annexed contains (here enumerate the schedules. As many schedules and in such order and relation as will best exhibit clearly all transactions had, whatever they may be, should be annexed; such as statement of properly sold. with prices and manner of sale ; statement of debts <oileded and not collected; property unsold and perished by loss, Ac.; moneys paid for funeral and other expenses ; and in referring to them show that things done have been properly done, and give the reasons why certain things have not been done).

On or about the day of 19 , I caused a notice for claimants to present their claims against the said estate (show manner of notice and publication).

Schedule contains a statement of all the claims of creditors presented and allowed, or disputed by me (&c.).

(Go on to show that there are schedules containing statements of payments to legatees, names of persons entitled as widow, next of kin, legatees, &c., and finally ;)

Schedule hereto annexed contains a statement of all other facts affecting my administration of the said estate, and my rights and those of others interested therein.

Rs.

I charge myself as follows :

- With amount of inventory
With amount of increase as shown by Schedule A

I credit myself as follows ;

- With amount of loss on sales as shown by Schedule B
With debts not collected as shown by

Leaving a balance of rupees to be distributed to those entitled thereto, subject to the deductions of the amount of my compensation and the expenses of this accounting. The said schedules, which are severally signed by me, are pan of this account.

(Signed, &c.).....

(Schedules in order, each signed.)

(Affidavit as in Form No. 119.)

CIVIL PROCEDURE CODE

[Cap. 105

No. 118A

FORM OF FINAL ACCOUNT

[§125,20 of
1977.]
[Section 724A.]

Date of Death ASSETS Testamentary
No.
LIABILITIES, PAYMENTS AND DISTRIBUTIONS

Valuation as per Inventory	Receipts and Transactions	Liabilities as per Inventory	Payment and Distribu-	Ref. to Court Order or Transaction	Voucher or Receipt No.
Immovable Property	Funeral expenses and alms giving, Income Tax, Estate Duty at . . . % Costs of Administration Debts due and payable as per Inventory, Debts Paid as per Schedule				
Movable Property	—	—	—	—	—

No. 119

FORM OF AFFIDAVIT OF ACCOUNTING PARTY

[Section 733.]

(Title and formal parts. "In the matter", &c., as in Form No. 118.)

I, A. B. (executor, or as may be) of deceased, being (&c.), say that the charge made in the foregoing account of proceedings and schedules annexed, for moneys paid by me to creditors, legatees and next of kin, and for necessary expenses, are correct; that I have been charged therein all the interest for moneys received by me and embraced in the said account, for which I am legally accountable; that the moneys stated in the said account as collected were all that were collectible according to the best of my knowledge, information, and belief, on the debts stated in such account at the time of this settlement thereof; that the allowances in the said account for the decrease in the value of any assets and the charges therein for the increase in such value are correctly made; and that I do not know of any error in the said account or anything omitted therefrom which may in any wise prejudice the rights of any party interested in the said estate. And I further say that the sums under twenty rupees charged in the said account for which no vouchers or other evidences of payment are produced or for which I may not be able to produce vouchers or other evidences of payment, have actually been paid and disbursed by me as charged, and that the said account contains to the best of my knowledge and belief a full and true statement of all my receipts and disbursements on account of the estate of the said deceased, and of all moneys and other property belonging to the said estate which have come into my hands, or which have been received by any other person by my order or authority for my use, and that I do not know of any error or omission in the account to the prejudice of any creditor or person interested in the estate of, the said deceased.

(Formal conclusion.)

No. 119A

FORM OF RECEIPT AND DISCHARGE IN FAVOUR OF EXECUTOR OR ADMINISTRATOR

[§125, 20 of
1977.]
[Section 724B.1

(Title.)

We do hereby acknowledge the conveyance and delivery and/or receipt of the devises and legacies made and bequeathed severally to us under the last will (or the distributive shares due to us as heirs) (or the debts due to us as creditors) of the deceased abovenamed, and do hereby grant a full discharge to the executor (or administrator) abovenamed in respect of the said devises and legacies (or distributive shares or debts, *05 the case may be*).

Sgd.
Respondent.

Sgd.
Respondent.

Sgd.
Respondent.

Witness to the identity and signature of the abovenamed

respondents.

Sgd.
Attorney-at-Law.

No. 120

[Section 726.]

PETITION FOR JUDICIAL SETTLEMENT OF EXECUTOR'S ACCOUNT

(Adoptform No. 114, adding:)

That..... has elapsed since issue of (probate, Ac.), but the said (executor, &c.) has not rendered any account of his proceedings as such.

No. 121

[Section 727.]

FORM OF ORDER ON EXECUTOR, &c., TO RENDER ACCOUNT

(Title of the action, " and in the matter of the judicial settlement of the account.....,&c.)

A citation having been heretofore issued on the petition of requiring to show cause before this court on at &c; why he should not render his account as (executor &c.) of late of deceased, and the said citation having been returned on that day together with proof of due service on the said and the said having failed to appear (or to show cause to the contrary and to present a petition that his account be judicially settled : It is ordered that the said render an account of his proceedings as (Ac.) to this court on the (&c. at &c.), and file the same herein on or before that time ; and that the said personally be and appear before this court at that time and attend from lime to time for the purpose of the said account as the court may order; and that in case of disobedience to this order an attachment may issue against him.

(Signed, &c.) , District Judge.

No. 122

[Section 729.]

FORM OF EXECUTOR'S PETITION FOR A JUDICIAL SETTLEMENT

(Title.)

To the District Court, &c, (formal heading).

1.—More than one year since (recite issue of probate or administration to petitioner).

2.—The persons interested in the estate of the said deceased as creditors, wife (husband), next of kin (legatees), or otherwise, and their places of residence, to the best of the knowledge, information, and belief of your petitioner, are as follows, to wit: (Set out. If necessary, negative the existence of any more; and where an address cannot be ascertained, show that it is so).

Wherefore (Ac.) that his account of his proceedings as such may be judicially settled, and that the creditors or persons claiming to be creditors of the deceased, and the said wife (husband) next of kin (legatees), [and that said as executor (or otherwise) of the said] (and your petitioner's co-executor, C. D.) be cited to attend such settlement.

(Formal conclusion.)

(Signed, &c.).....

No. 123

[Section 729.]

FORM OF CITATION ON SUCH APPLICATION

(Adopt No. 111. The citation is "to attend the final judicial settlement of the account of the proceedings of as &c; of the said deceased-.....")

No. 124

FORM OF ANSWER BY PARTY CONTESTING AN ACCOUNT

[Section 730.]

(Title as inform of account.)

A. B; a creditor (or a legatee or otherwise) of the said deceased, contesting the account filed by executor, (or as the case may be) of, Ac. alleges that the said account is erroneous in the following particulars :

(Here set forth objections, e.g., thus:)

1.—That the item of rupees for is extravagant, Ac.

2.—That the item of rupees is without vouchers, &c. (as the case may be).

3.—That the said account should be surcharged by the following items :

(1) That it does not include (and so on).

4.—The item of rupees is erroneous (and so on with regard to all the items to which objection is taken).

Lastly.—Your contestant further reserves the right and privilege of making the foregoing objections more definite and certain, and of interposing other and further objections to the said account, or to any of the acts of the said (executor, &c.).

(Signature and address of contestant.)

The day of 19

No. 125

FORM OF DECREE ON FINAL SETTLEMENT OF ACCOUNT

[Section 740.1

(Title, &c. "and in the matter", &c.)

A. B. (executor or administrator, Ac.), of late of deceased having heretofore made application to this court for a Judicial settlement of his final account as such (or, where the application was made by someone else, recite accordingly), and a citation having been thereupon issued (recite terms of citation), and the said citation having been returned and filed with proof of the due service thereof on (names), and the said (executor) having appeared on the return day of the said citation, and the said (executor) having rendered his account under affirmation (or oath) before this court; and the said account having been filed together with the vouchers in support thereof, and no objection having been made to the said account (or recite fact of objections), and the said matter having been duly adjourned to this day, this court, after having examined the said account and vouchers, now finds the state and condition of the said account to be as stated and set forth in the following summary statement thereof made by the said court, as finally settled and adjusted by the court to be recorded with and taken to be a part of the decree in this matter, to wit;

A summary statement of the account of A. B; (executor &c., set out) made by this court as finally and Judicially settled and allowed.

Rs.

The said (executor) is chargeable as follows:

- With amount of inventory
With amount of increase as per Schedule A

Rs.

He is credited as follows :

With amount of loss on sales as per Schedule B &c. &c. &c. - -

Leaving a balance of

The said balance consists of:

And it appearing that the said (executor) has fully accounted for all the moneys and property of the said deceased which have come into his hands as such and his final account having been adjusted by the said court and a summary settlement of the same having been made as above recorded : It is hereby ordered and decreed :

That the said account be and the same is hereby finally and Judicially settled and allowed as filed and adjusted.

And it is further ordered and decreed that out of the balance so found, as above, remaining in the hands of the said (executor), he retain the sum of rupees for the compensation to which he is entitled on this account; and that he pay into the court the sum of rupees for the expenses of this accounting.

(Other recitals and directions will have to be inserted according to circumstances.)

And it appearing that after retaining the amounts above specified a balance of rupees will remain in the hands of the said (executor): It is therefore further ordered and decreed that the said (&c.) distribute the said remaining balance of rupees as follows, namely :—That he pay (&c. *selling out how the balance is to be distributed.*)

And it is further ordered and decreed that the said (&c.) pay the remainder of the said balance, being the sum of rupees to (the residuary legatee named in the said will).

(Formal conclusion)

***No. 129**

[Section 757.]

FORM OF SECURITY BOND IN APPEAL

{Follow the ordinary form of bond, making the Registrar, &c. obligee and making the condition: "to pay all costs which shall be incurred and taxed in prosecution of the said appeal if the said appellant shall be decreed to pay the same. "}

+No. 132

[Section 793.]

FORM OF SUMMONS TO PERSONS ACCUSED OF CONTEMPT OF COURT

In the Court of

Whereas your attendance is necessary to answer to a charge of contempt committed against the authority of this court in that you having duly attended the same in obedience to a summons requiring you to testify on behalf of one in *(title of case, &c.)*, departed from the said court in contravention of the provisions of section 136 of the Civil Procedure Code (or *as the case may be*), as appears from *(slate how)*: You are hereby required to appear in person before this court on the day of 19 , - , at o'clock of the forenoon, to answer to the said charge.

(Signed and dated) ,Judge.

* Forms Nos. 126 to 128 are omitted as having ceased to be applicable to section 756, as replaced by Law No. 20 of 1977.

+ Form No. 130 is omitted as having ceased to be applicable to section 761, as replaced by Law No. 20 of 1977.

Form No. 131 is omitted as section 783 has been repealed by Ordinance No. 31 of 1909.

CIVIL PROCEDURE CODE

[Cap.105]

No. 133

FORM OF WARRANT IN THE LIKE CASE

[Section 794.]

(Heading as in last form)

To....., Fiscal, &c.

Whereas of has been summoned to attend in person before this court on the day of a t o'clock of the forenoon, to answer to a charge of contempt of the authority of this court, and this court has reason to believe that the attendance of the said cannot be secured to answer such charge on the said day without the issue of a warrant in that behalf:

You are hereby directed to arrest the said and him safely keep in custody, and to produce him before this court on the said , day of 19 a t o'clock of the forenoon accordingly.

(Endorse on this warrant : If the said shall at any time after such his arrest give you good and sufficient security either by his own bond or that of some other person in the sum of rupees to attend before this court on the said day o f and to continue so to attend until otherwise directed by the court, he may be released.)

*No.134

FORM OF CONVICTION FOR CONTEMPT

[Section 797.]

In the.....Court. &c.

A. B., being this day before this court on a charge of having committed contempt of the authority thereof in that he on the day of (*slate charge*), and it appearing (after reading in evidence *the minute recorded by the court, Ac., or as the case may be, and where the fact is so, and after hearing the evidence of..... of.....*) that (*stale here the material/acts of behaviour, language, &c; which under the circumstances amount to contempt.*)

The said A. B. is therefore hereby convicted of the offence of having committed contempt of the authority of this court, and he is sentenced therefore to undergo (*slate term of imprisonment, or to pay a fine of rupees, Ac.*).

(Signed and dated).....,Judge.

SECOND SCHEDULE

[Section 214.]
[§21,53 of
1980.]

Part 1

DISTRICT COURTS

"Scale 6l costs and cnarges to DC paid to Registered Aiiomeys in me ulsmci t^ouns as weu oeiween pany ana party as between Registered Attorney and Client.

	Class I	Class II	Class III	Class IV
	Under Rs. 1.500	Rs. 1.500 and under Rs. 5.000	Rs. 5.000 and under Rs. 10,000	Rs. 10.000 and under Rs. 100,000
<i>Where the cause of action, title to land or property, value of estate or subject-mailer of she action is</i>				
Conterence with cVienI and re-cewmg, msITUCTIONS lo sue, defend, intervene or interplead, to obtain or to oppose the grant of Letters of Administration or Letters of Guardianship or Probate, or to take any other proceedings provided for under this Ordinance .	. . 2500	3500	5000	. . 6500
Proxy to Registered Attorney for any of the above purposes	. . 1000	1500	2000	. . 2500
Letter of Demand	. . 2000	2500	3000	. . 4000
Every necessary attendance on client in the progress of an action or proceeding	. . 1000	1500	2000	. . 2500
Every necessary attendance on Counsel	. . 1000	1500	2000	. . 2500

• Forms Nos. 135 and 136 are omitted consequent on the repeal of sections 809 and 825 by Law No. 20 of 1977.

	Class I	Class II	Class III	Class IV
	Under	Rs. 1,500	Rs. 5,000	Rs. 10,000
Where the cause of action, title 10 land or property, value of estate or subject-matter of the action is	Rs. 1,500	Rs. 5,000	Rs. 10,000	Rs. 100,000
Every necessary attendance on the Judge, Registrar, Fiscal, Justice of the Peace, Commissioner for Oaths, adverse party or his Registered Attorney or Counsel or any other person in the progress of an action or proceeding	.. 1000	.. 1500	.. 2000	.. 2500
Every necessary attendance on Registrar of lands or any other Officer of a Government Department, Corporation, Board or any other authority in the progress of an action or proceeding	.. 1000	.. 2000	.. 3000	.. 4000
Drawing plaint, answer, replication, plea or any other pleading, petition or application	.. 25 00	.. 3500	.. 5000	.. 6500
Preparing written instructions for Counsel to draw or settle the above and attendance therewith	.. 2000	.. 2500	.. 3000	.. 4000
Attending Court and filing plaint, answer, replication, plea or any other pleading, petition or application	.. 1000	.. 15 00	.. 20 00	.. 2500
Making and serving copy of same or translation thereof for service, per folio*	.. 100	.. 1 50	.. 1 50	.. 200
Making copies of documents to be filed with pleading, or for service on parties, per folio*	.. 1 0 0	.. 1 5 0	.. 1 5 0	.. 2 0 0
Drawing, summons, notice, subpoena, writ or other process, order of Court, decree, or judgment	.. 3 0 0	.. 4 0 0	.. 6 0 0	.. 1 0 0 0
Making copy or translation thereof	.. 1 5 0	.. 2 0 0	.. 3 0 0	.. 4 0 0
Attending Registrar to get the same signed	.. 1000	.. 15 00	.. 2000	.. 2500
Drawing motions and other ordinary applications when necessary	.. 5 0 0	.. 10 0 0	.. 1 5 0 0	.. 2000
Every necessary attendance at Court Offices and Record Room to make all necessary applications, to file all motions, to peruse orders thereon and to search for return to summons or notice or any other process	.. 3 0 0	.. 500	.. 600	.. 1000
Attending Court without Counsel to support or oppose application or motion for judgment or any other special motion or application	.. 2500	.. 3500	.. 5000	.. 6500
Attending Court to support or oppose all necessary ordinary applications or motions	.. 25 00	.. 3500	.. 5000	.. 6500
Drawing and fair-copying affidavit	.. 1500	.. 2000	.. 3000	.. 65 00
Drawing decrees, applications for execution, probate, Letters of Administration, interrogatories, cross interrogatories, commissions, special case, injunction, sequestration, proclamation bonds, reference citations, inventories and accounts	.. 15 00	.. 25 00	.. 4000	.. 5000
Drawing brief for Counsel and fair-copy, per folio*	.. 1 0 0	.. 1 5 0	.. 1 5 0	.. 200
Making copy of pleadings and documents to accompany brief, per folio*	.. 1 0 0	.. 1 5 0	.. 1 5 0	.. 200
Where two or more Counsel are engaged, for drawing second brief (no charges for further brief), per folio*	.. 1 0 0	.. 1 5 0	.. 1 5 0	.. 200
Attending Court with Counsel on trial, if cause argued or heard	.. 5000	.. 7000	.. 10000	.. 12500
Attending Court with Counsel on trial, if cause adjourned, postponed or struck off	.. 30 00	.. 5000	.. 8000	.. 100 00
Attending Court without Counsel on trial and conducting cause	.. 5000	.. 10000	.. 150 00	.. 190 00
Attending Court without Counsel on trial, if cause adjourned, postponed or struck off	.. 30 00	.. 50 00	.. 80 00	.. 100 00
Where judgment is deferred, attending Court to hear it	.. 25 00	.. 35 00	.. 5000	.. 6500
Attending arbitration without Counsel, each sitting (no fees after sixth sitting)	.. 5000	.. 10000	.. 15000	.. 19000
Attending arbitration with Counsel, each sitting (no fees after sixth sitting)	.. 3 0 0 0	.. 5 0 0 0	.. 8 0 0 0	.. 1 0 0 0 0
Attending Commissioner to examine or cross-examine witnesses on local examination of accounts or for any other purpose with Counsel	.. 2000	.. 3000	.. 5000	.. 6500
Attending Commissioner as above without Counsel	.. 4000	.. 5000	.. 7000	.. 9000
Drawing Bill of Costs and fair-copy	.. 150	.. 3000	.. 5000	.. 5000

*A folio to consist of 120 words.

	<i>Class I</i>	<i>Class II</i>	<i>Class III</i>	<i>Class IV</i>
	<i>Under</i>	<i>Rs. 1,500</i>	<i>Rs. 5,000</i>	<i>Rs. 10,000</i>
<i>Where the cause of action, title to land or property, value of estate or subject-matter of the action is</i>	<i>Rs. 1,500</i>	<i>and under Rs. 5,000</i>	<i>and under Rs. 10,000</i>	<i>and under Rs. 100,000</i>
		<i>irrespective of the number of folios</i>	<i>irrespective of the number of folios</i>	<i>irrespective of the number of folios</i>
	<i>per folio*</i>	<i>folios</i>	<i>folios</i>	<i>folios</i>
Attending taxation	. . 1000	. . 2000	. . 3000	. . 4000
Perusing and considering papers, exhibits, or documents furnished or used in any action or proceeding by the adverse party or furnished by a party to his own Registered Attorney for the purpose of being used as evidence in any action or proceeding			Such sum as the Registrar shall consider fair and reasonable subject to review and appeal as provided in this Ordinance.	
Examining witnesses preparatory to trial or for instructions for brief (per witness)	. . 10 00	. . 2000	. . 30 00	. . 4000
For every necessary letter vouched by letter book, exclusive of postage	. . 5 0 0	. . 1000	. . 15 0 0	. . 2000

Maps, Surveys, Plans or models, when necessary, such sum as the Registrar shall deem reasonable subject to review and appeal.

Witnesses' expenses, as the Court may determine.

All necessary instructions, applications, and motions and all necessary attendance at consultations, and copies of documents and all fees and charges not otherwise provided for (including letters) such sums as the Registrar shall deem reasonable, subject to review and appeal.

In all actions involving Rs. 100,000 and over the taxable charges to be one-third (1/3) higher than in Class IV.

Part 2

Scale of fees to be paid to Counsel in the District Courts.

	<i>I</i>	<i>II</i>	<i>III</i>	<i>IV</i>
<i>Where the cause of action, title to land or property value of estate or subject matter of the action is</i>	<i>Under Rs. 1,500</i>	<i>Rs. 1,500 and under Rs. 5,000</i>	<i>Rs. 5,000 and under Rs. 10,000</i>	<i>Rs. 10,000 and over</i>
Retainer	. . 3000	. . 5000	. . 7000	... 100 00
Advising action, defence or appeal	. . 3000	. . 5000	. . 7000	... 100 00
Drawing, perusing, settling, and signing any pleading application or petition	. . 5000	. . 7000	. . 10000	. . 200 00to .. 300 00
Drawing, perusing and settling special case	. . 5000	. . 7000	... 10000	... 200 00
Drawing, perusing, and settling interrogatories, decree, etc.	. . 5000	. . 7000	.. 10000	... 150 00
Consultation fee	. . 5000	. . 7000	.. 10000	. . 200 00
Supporting or opposing any special motion or application	. . 5000	.. . 7000	... 10000	... 200000
Brief fee on trial or argument	... 10000	.. 15000	... 20000	.. 300 00to 1,000 00
Brief fee where trial or argument is resumed	. . 5000	... 10000	. . 15000	.. 200 0010 700 00

- N. B. (1) The fee of a Junior Counsel will not be allowed where two Counsel are engaged in Classes I and II.
 (2) No fees will be allowed for a third Counsel in any class.
 (3) The brief fee of a Junior Counsel, where two Counsel are engaged will be half of the Senior Counsel's brief fee.

The Registrar may allow any charges or fees as he shall deem reasonable (not otherwise provided for) on special application being made to him, subject to review and appeal as provided in this Ordinance.

* A folio to consist of 120 words.

Part 3

COURT OF APPEAL

In Appeal

Counsel's fees

Appeals where value of action is Rs. 1,500/- or under—

Brief fee on argument Rs. 10000

Appeals where value of action is over Rs. 1,500/-

Retainer Rs. 100 00

Consultation fee Rs. 100 00 to 300 00

Making or opposing any special motion Rs. 100 00 to 300 00

Brief fee **Rs. 200 00 to 2,000 00**

Drawing, perusing, settling and signing any application or petition **Rs. 100 00 to 300 00**

Registered Attorney's Fees as well between party and party as between Registered Attorney and client.

	<i>Class I</i> Rs. 1,500 and under	<i>Class II</i> Rs. 5,000 and under	<i>Class III</i> Rs. 10,000 and under	<i>Class IV</i> Rs. 100,000 and wider
Proxy	. . 750	. . 1000	. . 1500	. . 2000
Instructing Counsel to make or oppose any special motion, or for advice on appellant's or respondent's case	5000	7500	. 10000	. . 12500
Drawing brief for Counsel or any bond, affidavit, petition or application and fair-copy, per folio*	250	500	. 500	. . 700
Close copy of pleading, evidence and documents to accompany brief, per folio*	125	125	. 125	. . 150
Attending Court	5000	7500	. 10000	. . 12500
Every necessary attendance on Registrar	2500	2500	. 2500	. . 3500
Drawing of Bill of Costs	2250	2250	. 2250	. . 3000
Servicing copy with notice of taxation	750	750	. 750	. . 1000

Note I. In all actions involving over Rs. 100,000/- the taxable charges to be one third (1/3) higher than in Class IV.

Note 1. The Registrar may allow any charges or fees not specially provided for, as he shall deem reasonable on special application being made, subject to an appeal to the Court.

*A folio to consist of 120 words.

CHAPTER 220

CEYLON PETROLEUM CORPORATION

Acis
Nos-28 of 1961,
5 of 1963,
18 of 1965,
Laws
Nos.50 of 1973,
2 of 1976.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A CORPORATION TO CARRY ON BUSINESS AS AN IMPORTER, EXPORTER, SELLER, SUPPLIER OR DISTRIBUTOR OF PETROLEUM. AS WELL AS THE BUSINESS OF EXPLORING FOR, OR EXPLOITING OR PRODUCING OR REFINING PETROLEUM, TO ENABLE THE COMPULSORY ACQUISITION OR REQUISITION FOR SUCH CORPORATION OF ANY IMMOVABLE OR MOVABLE PROPERTY REQUIRED" FOR THE PURPOSES OF SUCH CORPORATION AND TO PROVIDE FOR THE ESTABLISHMENT OF A COMPENSATION TRIBUNAL; TO PROVIDE FOR THE REGULATION AND CONTROL OF THE PRICE OF PETROLEUM; AND TO MAKE PROVISION FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID-

[29th May. 1961.]

Short title-

I. This Act may be cited as the Ceylon Petroleum Corporation Act.

(b) to carry on the business of exploring for, and exploiting, producing, and refining of, petroleum; and [§3,5 of 1963.]

PART I

CONSTITUTION AND POWERS AND DUTIES OF THE CEYLON PETROLEUM CORPORATION AND ITS BOARD OF DIRECTORS

(c) to carry on any such other business as may be incidental or conducive to the attainment of the objects referred to in paragraphs (a) and (fr). [§3,5 of 1963.] [§3. 5 of 1963.1

Establishment of Ceylon Petroleum Corporation.

2. There shall be established a Corporation which shall be called the "Ceylon Petroleum Corporation" (hereinafter referred to as "the Corporation") and which shall consist of the persons who are for the time being members of the Corporation under section 4.

5A. (1) For the purposes of sections 5B, 5D and 5F, the expression "appointed date" means such date as may be appointed by the Minister, with the approval of the Government, by Order published in the Gazette (being a date prior to January 1, 1964) or the following date, namely, January 1, 1964, whichever of such dates is the earlier date. Meaning of (he expression " appointed dale ". [§4, 5 of 1963.1

Seal of the Corporation.

3. The Corporation shall, by the name assigned to it by section 2, be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

(2) An Order made under subsection (1) shall, upon its publication in the Gazette, be deemed to be as valid and effectual as if it were herein enacted.

Members of the Corporation.

4. The members of the Board of Directors shall be the members of the Corporation.

5B. (I) On and after the appointed date, the right to import, export, sell, supply or distribute— Exclusiveright to import, export, sell, supply or distribute petroleum of certain classes or descriptions vested in the Corporaflon. (§4, 5 of 1963.]

General objects of the Corporation.

5. The general objects of the Corporation shall be—

(a) to carry on business as an importer, exporter, seller, supplier or distributor of petroleum;

(a) petrol;
(b) kerosene;
(c) diesel oil, and
(d) furnace oil,

shall, save as otherwise expressly provided by or under this Act, vest exclusively in the Corporation.

(2) On and after the appointed date, no person, other than the Corporation, shall, save as otherwise expressly provided by or under this Act, import, export, sell, supply or distribute—

- (a) petrol; or
- (b) kerosene; or
- (c) diesel oil; or
- (d) furnace oil.

(3) The sale, supply or distribution by any person of any petrol, kerosene, diesel oil or furnace oil shall be deemed not to be—

- (a) an interference with, or a violation of, the exclusive right vested in the Corporation by subsection (1); or
- (b) a contravention of the provisions of subsection (2),

if, but only if, it is done under the written authority of the Minister or any authorized officer under subsection (4), or of the Board of Directors under section 5E, and in accordance with the terms and conditions subject to which such authority is granted.

(4) The Minister or any authorized officer may grant a written authority to any person to import, export, sell, supply or distribute petroleum of any class or description specified in subsection (1) for the sole purpose only of enabling such person to provide petroleum of that class or description as fuel for marine ships or aircraft.

5C. (1) The Minister may, from time to time, by Order declare that the right to import, export, sell, supply or distribute petroleum of any such class or description as shall be specified in the Order, not being petroleum of any class or description specified in subsection (1) of section 5B, shall, save as otherwise expressly provided by or under this Act, vest exclusively in the Corporation. Any such Order may be

amended, varied or revoked by the Minister by a like Order.

(2) The provisions of subsections (3) to (5), both inclusive, of section 66 shall *mutatis mutandis* apply to every Order made under subsection (1) of this section in like manner and to the same extent as such provisions apply to an Order made under the said section 66.

(3) So long as an Order made by the Minister under subsection (1) is in force in respect of petroleum of any class or description, no person other than the Corporation shall, save as otherwise expressly provided by or under this Act, import, export, sell, supply or distribute petroleum of that class or description.

(4) The sale, supply or distribution by any person of petroleum of any class or description in respect of which there is for the time being in force an Order made by the Minister under subsection (1) shall be deemed not to be—

- (a) an interference with, or a violation of, the exclusive right vested in the Corporation by that Order; or
- (b) a contravention of the provisions of subsection (3),

if, but only if, it is done with the written authority of the Board of Directors under section 5E, and in accordance with the terms and conditions subject to which such authority is granted-

5D. On and after the appointed date, the right to explore for, and exploit, produce and refine, petroleum shall vest exclusively in the Corporation; and accordingly, on and after that date, no person, other than the Corporation, shall explore for, or exploit or produce or refine, petroleum.

5E. Notwithstanding that the exclusive right to sell, supply or distribute petroleum of any class or description is vested in the Corporation by any provision of this Act or any Order made thereunder, the Board of Directors may, from time to time, as respects petroleum of that class or description only grant written authority to

Exclusive right to explore for, &c., petroleum vested in the Corporation. [§4, 5 of 1963.]

Power of, Board of Directors to authorize persons to sell, &c., petroleum of certain classes or descriptions. [§4,5 of 1963.]

Power of Minister by Order to vest (the exclusive right in the Corporation to import, export, sell, supply or distribute petroleum of certain classes or descriptions. [§4,5 of 1963.]

any person to sell, supply or distribute petroleum of that class or description subject to such terms and conditions as may be determined by such Board.

Control of the establishment and maintenance of equipment and facilities for the exploration, &c., of petroleum, [§4.5 of 1963.]

5F. On and after the appointed date, no person, other than the Corporation or any person authorized by the Board of Directors under section 5E, shall establish or maintain any equipment or facilities for the exploration, exploitation, production, refinement, storage, sale, supply or distribution of petroleum except with the written authority of the Minister or any authorized officer, or otherwise than in accordance with the terms or conditions subject to which such authority is granted.

Control of the disposal of equipment and facilities intended for the exploration, &c., of petroleum. [§4.5 of 1963.]

5G. No person, other than the Corporation, shall export, sell, lease, transfer, hypothecate, alienate or dispose of in any manner whatsoever any equipment or facilities which had been, or is or are being, or is or are, or was or were, intended to be used for the exploration, exploitation, production, refinement, storage, sale, supply or distribution of petroleum except with the written authority of the Minister or any authorized officer, or otherwise than in accordance with the terms and conditions subject to which such authority is granted.

Special provisions applicable to the power of granting written authorities conferred on the Minister, authorized officers and the Board of Directors. [§4, 5 of 1963-]

5H. The following provisions shall be applicable in the case of the exercise of the power to grant a written authority conferred on the Minister, any authorized officer or the Board of Directors by any of the sections 5B, 5E, 5F and 5G:—

- (1) Such authority may be granted either of his or its own motion or on application in that behalf made by any person.
- (2) The Minister, such officer or such Board may, in his or its absolute discretion, decide whether to grant or refuse to grant such authority.
- (3) The Minister, such officer or such Board may, in his or its absolute discretion, decide the terms and conditions subject to which such authority should be granted.

(4) The Minister, such officer or such Board may, in his or its absolute discretion, decide at any time to cancel such authority.

(5) The terms or conditions of such authority may be amended, varied or cancelled either of his or its own motion or on application in that behalf made by the person to whom such authority is granted.

(6) The Minister, such officer or such Board may, in his or its absolute discretion, decide whether or not to amend, vary or cancel any term or condition of such authority.

(7) Any decision made by the Minister, such officer or such Board under the preceding provisions of this section shall be final and conclusive, and shall not be called in question in any court whether by way of writ or otherwise.

5I. The expression " authorized officer " wherever it occurs in any of the sections 5B to 5H (both inclusive) means any public officer or an officer of the Corporation authorized in that behalf by the Minister.

Meaning of the expression " authorized officer ". [§4, 5 of 1963.1

5J. (1) No person other than the Corporation who on the 5th day of June, 1963, was carrying on business as an importer and seller, supplier or distributor of petroleum of any class or description specified in subsection (1) of section 5B shall terminate the employment of any person (hereafter in this section referred to as an " employee ") employed by him except with the written approval of the Commissioner, or otherwise than in accordance with the terms or conditions subject to which such approval is granted.

Special provisions relating to employees of persons who were carrying on business as importer and seller, &c., of petroleum. [§4.5 of 1963.]

A person who was carrying on the business referred to in the preceding provisions of this subsection is hereafter in this section referred to as an " employer ".

(2) The following provisions shall apply in the case of the exercise of the powers conferred on the Commissioner to grant his approval to an employer terminating the

employment of any employees :—

- (a) Such approval may be granted or refused on application in that behalf made by such employer.
- (b) The Commissioner may, in his absolute discretion, decide to grant or refuse such approval.
- (c) The Commissioner may, in his absolute discretion, decide the terms and conditions subject to which his approval should be granted, including in particular terms and conditions relating to the payment by such employer to such employee of a gratuity or compensation for the termination of employment-
- (d) Any decision made by the Commissioner under the preceding provisions of this subsection shall be final and conclusive, and shall not be called in question in any court, whether by way of writ or otherwise.

(3) Where, on or after June 5, 1963, any employer has granted or grants to any employee, in addition to any benefit such employee was or would be entitled to receive in the ordinary course of his employment, any *ex gratia* gratuity or compensation or other benefit (hereafter in this subsection referred to as "*ex gratia* benefits"), then, every person who was an employee of that employer on June 5, 1963, shall be entitled, with the approval of the Commissioner given upon application in that behalf made by such person, to receive the same *ex gratia* benefits so however that the amount thereof shall be as determined by the Commissioner. The preceding provisions of this subsection shall apply to any person notwithstanding that he ceased or ceases to be an employee of that employer after June 5, 1963, for any reason whatsoever other than misconduct. Any approval or determination of the Commissioner under the preceding provisions of this subsection shall be final and conclusive, and shall not be called in question in any court, whether by way of writ or otherwise.

(4) Where an *ex gratia* gratuity or compensation or other benefit is granted by

any employer to an employee, such employer shall furnish to the Commissioner, within thirty days of the grant thereof, full details of the gratuity, compensation or other benefit so granted. Such details shall be furnished in such form and manner as may be determined by the Commissioner.

(5) In this section, "Commissioner" means the Commissioner of Labour, and includes a Deputy Commissioner of Labour.

5K. The provisions of section 5A to 5J (both inclusive) shall have effect notwithstanding anything to the contrary in any other provisions of this Act, or in any undertaking, express or implied, given by or on behalf of the Government or the Corporation relating to the business of importing, exporting, selling, supplying or distributing petroleum. [§10.5 of 1963.]

6. The Corporation may exercise all or any of the following powers :- Powers of the Corporation.

- (a) to acquire, hold, lease or give on lease or hire, mortgage, pledge and sell or otherwise dispose of, any immovable or movable property ;
- (b) to employ such officers and servants as may be necessary for carrying out the work of the Corporation ;
- (c) to do anything for the purpose of advancing the skill of persons employed by the Corporation or the efficiency of the equipment of the Corporation or the manner in which that equipment is operated, including the provision by the Corporation, and the assistance of the provision by others, of facilities for training persons required to carry out the work of the Corporation;
- (d) to establish a provident fund, and provide welfare and recreational facilities, houses, hostels and other like accommodation for persons employed by the Corporation;
- (e) to construct, manufacture, purchase, maintain and repair anything required for the purpose of the business of the Corporation;

- (f) to make charges for any services rendered by the Corporation in carrying on such business;
 - (g) to purchase such quantities of petroleum as may be necessary for the purpose of the business of the Corporation;
 - (h) to re-export petroleum;
 - [§2, Law 2 of 1976.] (i) with the approval of the Government, to promote any subsidiary organization in Sri Lanka or abroad which may in the opinion of the Board directly or indirectly promote the interests, or be conducive to the attainment of the objects, of the Corporation;
 - [§2, Law 2 of 1976.] (j) to purchase, charter, build or otherwise acquire, mortgage, sell, exchange and let out on hire or charter or otherwise deal with or dispose of, any tanker, bunker or vessel;
 - [§2, Law 2 of 1976.] (k) to contribute such sums of money as may be determined by the Board with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance and the Minister in charge of the subject of Planning, to recognized institutions for the purpose of promoting technological, scientific and industrial research;
 - [§2, Law 2 of 1976.] (l) to give any guarantee, security or indemnity to, and to enter into any agreements with, any bank, Government department, local authority, or any other person in order to obtain any rights, concessions, or privileges that may seem to the Board to be conducive for the purposes of the Corporation;
 - (m) to delegate to any officer of the Corporation any such function of the Corporation as the Corporation may consider necessary so to delegate for the efficient transaction of business;
 - (n) to enter into and perform or carry out, whether directly or through any officer or agent authorized in that behalf by the Corporation, all such contracts or agreements as may be necessary for the exercise of the powers of the Corporation;
 - (o) to make rules in relation to its officers and servants, including their appointment, promotion, remuneration, disciplinary control, conduct and the grant of leave to them;
 - (p) to make rules in respect of the administration of the affairs of the Corporation; and
 - (q) to do all other things which, in the opinion of the Corporation, are necessary to facilitate the proper carrying on of its business.
- 7.** (1) The Minister may, after consultation with the Board of Directors, give such Board general or special directions in writing as to the exercise of the powers of the Corporation, and such Board shall give effect to such directions.
- (2) The Minister may, from time to time, direct in writing the Board of Directors to furnish to him, in such form as he may require, returns, accounts and other information with respect to the property and business of the Corporation, and such Board shall carry out every such direction.
- (3) The Minister may, from time to time, order all or any of the activities of the Corporation to be investigated and reported upon by such person or persons as he may specify, and upon such order being made, the Board of Directors shall afford all such facilities, and furnish all such information, as may be necessary to carry out the order.
- 8.** (1) The Corporation shall have a Board of Directors consisting of seven members appointed by the Minister, one of whom shall be so appointed in consultation with the Minister in charge of the subject of Finance.
- (2) A person shall be disqualified from being appointed or continuing as a Director and in that event shall *ipso facto* cease to hold office,
- (a) if he is a Member of Parliament, or

Powers of the Minister in relation to the Corporation.

Board of Directors. [§3, Law 2 of 1976.]

(b) if he, directly or indirectly, by himself or by any person on his behalf or for his use or benefit, holds or enjoys any right or benefit under any contract other than a contract of employment made by, with or on behalf of the Corporation, or

(c) if he has any such financial or other interest except as an employee of the Corporation as is likely to affect prejudicially the discharge by him of his functions as a Director.

(3) Where a Director is, by reason of illness, infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint any person to act in his place-

(4) The Minister may, without assigning a reason, remove any Director from office. The removal of any Director from office by the Minister shall not be called in question in any court.

(5) A Director who is not a public officer may resign the office of Director by letter addressed to the Minister.

(6) Subject to the provisions of subsection (4) and subsection (5), the term of office of the Board of Directors shall be three years:

Provided that a Director appointed in place of a Director who dies or resigns or otherwise vacates office shall, unless he earlier resigns or otherwise vacates office, hold office for the unexpired part of the term of office of the Director whom he succeeds.

Remuneration of Directors.

9. All or any of the Directors may be paid such remuneration, out of the funds of the Corporation, as may be determined by the Minister, with the concurrence of the Minister in charge of the subject of Finance.

Director to disclose interest in contract proposed to be made by the Corporation.

10. A Director who is directly or indirectly interested in a contract proposed to be made by the Corporation shall disclose the nature of his interest at a meeting of the Board of Directors. The disclosure shall be recorded

in the minutes of such Board, and such Director shall not take part in any deliberation or decision of such Board with respect to such contract.

11. The quorum for any meeting of the Board of Directors shall be three.

Quorum for any meeting of Board of Directors.

12. The Chairman of any meeting of the Board of Directors shall, in addition to his own vote, have a casting vote.

Chairman of any meeting of the Board of Directors to have a casting vote.

13. Subject to the other provisions of this Act, the Board of Directors may regulate the procedure in regard to the meetings of such Board and the transaction of business at such meetings.

Regulation of Procudure.

14. The Board of Directors may act notwithstanding a vacancy among the members thereof.

The Board of Directors may act despite vacancy.

15. The general supervision, control and administration of the affairs and business of the Corporation shall be vested in the Board of Directors of the Corporation.

General control of the Corporation.

16. (1) The Board of Directors may delegate to any Director or employee of such Board any of its powers or duties.

Delegation of powers and duties of Board of Directors.

(2) Every delegate appointed under subsection (!) shall exercise or perform the power or duty delegated to him subject to the general or special directions of the Board of Directors.

17. (1) The Minister shall appoint a Chairman of the Board of Directors from among the Directors and may at any time appoint one of the Directors as the Managing Director of the Corporation. The Chairman of the Board of Directors shall be eligible for appointment as the Managing Director,

Chairman of the Board of Directors and Managing Director. [§4, Law 2 of 1976.]

(2) The Managing Director of the Corporation shall be eligible for appointment as the Chairman of the Board of Directors.

(3) The terms and conditions of the appointment of the Managing Director of

the Corporation shall be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(4) The Managing Director's term of office, his remuneration, his resignation or removal from or vacation of office, and his eligibility for reappointment on vacation of office shall notwithstanding anything in subsection (6) of section 8 be in accordance with the terms and conditions of his appointment.

Appointment of public officers and servants of the Local Government Service and of any local authority to the staff of the Corporation.

***19.** (1) At the request of the Board of Directors, any officer in the public service may, with the consent of that officer and of the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the Corporation for such period as may be determined by the Board with like consent or be permanently appointed to such staff.

(2) Where any officer in the public service is temporarily appointed to the staff of the Corporation, the provisions of subsection (2) of section 9 of the Motor Transport Act, No. 48 of 1957, shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Corporation, the provisions of subsection (3) of section 9 of the Motor Transport Act, No. 48 of 1957, shall, *mutatis mutandis*^f apply to and in relation to him.

(4) Where the Corporation employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Corporation by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(5) At the request of the Board of Directors, any officer or servant of the Local Government Service or any local authority may, with the consent of that officer or servant and of the Local Government Service Advisory Board or that authority, as the case may be, be temporarily appointed to the staff of the Corporation for such period as may be

determined by that Board with like consent, or be permanently appointed to the staff, on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by that Board and that Advisory Board or that authority.

(6) Where any officer or servant of the Local Government Service or of any local authority is temporarily appointed to the staff of the Corporation, he shall be subject to the same disciplinary control as any other member of such staff.

20. All officers and servants of the Corporation shall be deemed to be public servants within the meaning and for the purpose of the Penal Code.

Officers and servants of the Corporation deemed to be public servants.

21. The Corporation shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

The Corporation deemed to be a scheduled institution within the meaning of the Bribery Act-

22. (1) The seal of the Corporation shall be in the custody of the Board of Directors.

Application and custody of the seal of the Corporation.

(2) The seal of the Corporation may be altered in such manner as may be determined by the Board of Directors.

(3) The seal of the Corporation shall not be affixed to any instrument or document except in the presence of two Directors both of whom shall sign the instrument or document in token of their presence.

[§6, Law 2 of 1976]

PART II

FINANCE

23. (1) The initial capital of the Corporation shall be ten million rupees.

Capital of the Corporation.

(2) The amount of the initial capital of the Corporation shall be paid to the Corporation out of the Consolidated Fund in such instalments as the Minister in charge of the subject of Finance may, after consultation with the Minister, determine.

* Section 18 is repealed by Law No. 2 of 1976.

f Repealed by Law No. 19 of 1978.

(3) The capital of the Corporation may be increased, from time to time, by such amount as may be determined by the Corporation with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance.

(3) The Board of Directors may, with the consent of the Minister given with the concurrence of the Minister in charge of the subject of Finance, borrow money for any of the purposes mentioned in subsection (2) by the issue of stock under section 26 or in any other manner whatsoever.

Borrowing powers of the Board of Directors.

24. (1) The Board of Directors may, with the consent of the Minister, or in accordance with the terms of any general authority given by him, borrow temporarily, by way of overdraft or otherwise, such sums as the Board may require for meeting the obligations of the Corporation:

25. Any funds of the Corporation which are not immediately required for the purposes of the business of the Corporation may be invested by the Board of Directors in such manner as such Board may determine with the approval of the Minister.

Investments of funds of the Corporation.

Provided that the aggregate of the amounts outstanding in respect of any temporary loans raised by the Board of Directors under this subsection shall not at any time exceed such sum as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

26. (1) The Board of Directors—

Petroleum Corporation stock.

(a) may create and issue any stock required for the purpose of exercising the powers of the Board under subsection (3) of section 24, and

(b) shall create and issue such stock as is required for the purpose of satisfying any right as to compensation under this Act which is to be satisfied by the issue of stock,

(2) The Board of Directors may, with the consent of the Minister given with the concurrence of the Minister in charge of the subject of Finance, borrow money, otherwise than by way of a temporary loan under subsection (1), for all or any of the following purposes:—

and the stock so created and issued is in this Act referred to as "Petroleum Corporation Stock".

- (a) the provision of working capital;
- (b) the provision of money for meeting any expenses incurred in connexion with any permanent work or other thing the cost of which is properly chargeable to capital;
- (c) the provision of money required for the payment of any compensation under this Act which is payable in cash by the Corporation ;
- (d) the redemption of any stock issued or any loan raised by the Board of Directors ; and
- (e) any other purpose for which capital moneys are properly applicable, including the repayment of any money temporarily borrowed under subsection (1).

(2) Petroleum Corporation Stock shall be issued, transferred, dealt with, redeemed and cancelled in accordance with such terms as may be determined by the Board of Directors with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance.

27. (1) The Minister in charge of the subject of Finance shall guarantee the repayment of the principal of, and the payment of the interest on, any Petroleum Corporation Stock created and issued under section 26 (1) (b), and may, with the concurrence of the Minister, guarantee the repayment of the principal of, and the payment of the interest on, any Petroleum Corporation Stock created and issued under section 26 (1) (a).

Government guarantee.

(2) Any sum required for the fulfilment of a guarantee provided under subsection (1)

may, with the prior approval of Parliament, be paid out of the Consolidated Fund.

(3) Any sum paid out of the Consolidated Fund in fulfilment of a guarantee provided under subsection (1) shall be repaid, together with interest thereon, at such rate as the Minister in charge of the subject of Finance may determine with the concurrence of the Minister, by the Corporation in such manner and over such period as the Minister in charge of the subject of Finance may with such concurrence determine.

(4) Immediately after a guarantee is given under subsection (1), the Minister in charge of the subject of Finance shall lay a statement of the guarantee before Parliament.

(5) Where any sum is paid out of the Consolidated Fund in fulfilment of a guarantee provided under subsection (1), the Minister in charge of the subject of Finance shall forthwith lay before Parliament a statement that such sum has been so paid.

28. The revenue of the Corporation in any year shall be applied in defraying the following charges in the order of priority set out hereunder:—

- (a) the working and establishment expenses (including allocations to the insurance reserve and depreciation reserve), in connexion with the exercise and performance of the powers of the Corporation, properly chargeable to revenue account;
- (h) the interest on any temporary loan raised by the Corporation ;
- (c) any sums required to be transferred to any sinking fund or redemption fund; and
- (d) the interest on and the repayment of the principal of any Government loan to the Corporation.

Reserves. **29.** (1) The Board of Directors—

- (a) may establish and maintain an insurance reserve to cover the insurance of the movable and

immovable property of the Corporation and liabilities arising under the Workmen's Compensation Ordinance; and

(b) shall establish and maintain—

- (i) a depreciation reserve to cover the depreciation of the movable and immovable property of the Corporation, and
- (ii) a general reserve not exceeding such amount as may from time to time be determined by the Minister.

(2) Such amount out of the surplus of the revenue of the Corporation in any year remaining after the charges mentioned in section 28 have been satisfied as can be paid to the general reserve without causing it to exceed the amount determined by the Minister under paragraph (b) (ii) of subsection (1) shall be paid to that reserve and the balance, if any, of such surplus shall be paid to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund.

30. (1) The Corporation shall cause its Accounts. accounts to be kept in such form and in such manner as may be prescribed.

(2) The books and the accounts of the Corporation shall be kept at the head office, of the Corporation.

(3) The Corporation shall cause its books to be balanced as on the thirty-first day of December in each year and shall, as soon as may be thereafter, cause to be prepared a profit and loss account and a balance sheet containing a summary of the assets and liabilities of the Corporation made up to date aforesaid. The aforesaid accounts and the balance sheet shall be signed by the officer responsible for the preparation of such accounts and balance sheet.

31. The Corporation shall have its Audit of accounts. accounts for each year audited before the thirtieth day of June of the succeeding year by an auditor appointed by the Minister in consultation with the Auditor-General. The auditor shall receive such

remuneration from the funds of the Corporation as the Minister may in consultation with the Corporation determine.

Auditor's report and transmission of report and balance sheet, &c., to the Minister

32. (1) The auditor appointed under section 31 shall examine the accounts of the Corporation and ascertain the correctness of the balance sheet and furnish a report stating—

- (a) whether he has or has not obtained all the information and explanations required by him, and
- (b) whether the balance sheet and accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the Corporation's affairs.

(2) The report of the auditor shall be transmitted to the Auditor-General and to the Corporation.

(3) The Corporation shall, on receipt of the auditor's report and the Auditor-General's comments, if any, thereon in each year, transmit such report together with the profit and loss account and the balance sheet to which the report relates, and a statement by the Corporation of its activities during the financial year to which such report relates, and of the activities (if any) which are likely to be undertaken by the Corporation in the next financial year, to the Minister who shall before the thirty first day of December of the same year cause copies thereof to be laid before Parliament for approval.

[§23,38 of 1971.]

Exemption from taxes. [§57, 18 of 1965.]

33. The Personal Tax Act, No. 14 of 1959,* shall not apply to the Corporation.

PART III

ACQUISITION, REQUISITION, AND USE OF PROPERTY FOR OR BY THE CORPORATION

Notice of claim or disclaimer in respect of property required for the purposes of the Corporation. [§7,1.aw2 1976.]

34. (1) Any officer of the Corporation authorized by the Minister may, by notice (hereafter in this Act referred to as a "notice of claim") published in the Gazette, declare that any movable or immovable property, other than money, which

had been or is being or is or was intended to be used for—

- (a) the importation, exportation, storage, sale, supply or distribution of petroleum; or
- (b) oil exploration or siting of new distribution outlets of petroleum; or
- (c) the carrying on of such other business as may be incidental or conducive to the purposes referred to in paragraph (a) or paragraph (A),

is required for the purposes of the Corporation. Such property is hereafter in this Act referred to as "notified property".

(2) When a notice of claim is published under subsection (1) any property contained in or found on such notified property shall be deemed to have been included in the notice of claim.

(3) The publication of a notice of claim made under subsection (1) in respect of any property shall be conclusive proof that such property is required for the purposes of the Corporation.

(4) Where a notice of claim is published under subsection (1), any officer of the Corporation authorized by the Minister may from time to time, by notice (hereafter in this Act referred to as a "notice of disclaimer") published in the Gazette, disclaim the need, for the purposes of the Corporation, of the whole or any part of the property included in the notice of claim and specified in the notice of disclaimer.

(5) No person shall lease, hypothecate, alienate, transfer or dispose of in any manner whatsoever to any person other than the Corporation the whole or any part of—

- (a) any property which is included in a notice of claim and is not disclaimed by a notice of disclaimer, or

* See 1-ist of Enactments omitted from the Revised Edition.

(b) any right or interest in respect of or incidental to the property specified in paragraph (a).

(6) Any lease, hypothecation, alienation, transfer or disposal made or effected in contravention of the provisions of subsection (5) shall be null and void.

(7) Any person shall, if requested by any officer authorized by the Minister, furnish to such person as shall be specified in the request information with regard to any movable or immovable property included in a notice of claim as shall be so specified.

(8) Any person who—

(a) leases, hypothecates, transfers or disposes of any notified property in contravention of subsection (5); or •

(b) fails to furnish wilfully the information referred to in subsection (7), or who wilfully withholds all or any part of such information, or who furnishes information knowing such information to be false; or

(c) wilfully or negligently destroys or damages or causes to be destroyed or damaged any notified property; or

(d) removes, changes the situation, or alters the character or causes such removal, change or alteration of any notified property,

shall be guilty of an offence under this Act.

(9) Regulations may be made under this Act—

(c) empowering any person authorized in that behalf by the Corporation to inspect any notified property, and requiring the persons in whose possession or custody such property is to allow and assist the inspection thereof,

(b) providing that a report as to the condition of any notified property may be made, and may be subsequently amended, by or under the authority of the Corporation ;

(c) providing for the service of copies of such report or any amendment thereof on persons having an interest in the property to which the report relates;

(d) requiring persons on whom copies of the report or any amendment thereof have been served to notify the Corporation whether or not they are in agreement with such report or amendment, and, if they are not in agreement, to specify any objections they may have and the grounds of such objections and to produce all documents relied on by them in support of such objections;

(e) prohibiting the making of any improvements or alterations to any notified property without the prior approval of the Corporation ; and

(f) providing for all matters connected with or incidental to the matters aforesaid.

34A. Where any petroleum is found under the surface of the earth on any property in Sri Lanka, such petroleum shall, notwithstanding any right of ownership or otherwise which any person may have to the soil under which such petroleum is found or situated, vest in the Corporation.

Petroleum found under the surface of the earth to vest in the Corporation. [§8, Law 2 of 1976.]

35. (1) The Minister may, by Order (hereafter in this Act referred to as a "vesting Order") published in the Gazette, vest in the Corporation, with effect from such date as shall be specified in the Order, any such notified property as has not been disclaimed by a notice of disclaimer or any right, interest or benefit in such notified, property derived under the terms of any arrangement, agreement (formal or informal), lease or notarially executed instrument subsisting on the date of publication of the notice of claim.

Compulsory transfer to the Corporation of certain property.

(2) Before a vesting Order takes effect, the Minister may from time to time alter, by Order published in the Gazette, the date on which such vesting Order takes effect.

(3) A vesting Order shall have the effect of giving the Corporation absolute title to

any property specified in the Order with effect from the date specified therein and free from all encumbrances :

Provided however, where any right, interest or benefit in any notified property is vested in the Corporation, a vesting Order shall have the effect of giving the Corporation such right, interest or benefit with effect from the date specified in the Order.

Requisition of rolified property and compulsory acquisition of requisitioned property.

36. (1) The Minister may, by Order (hereafter in this Act referred to as a "requisitioning Order") published in the Gazette, requisition, with effect from such date as shall be specified in the Order, any notified property as is immovable property, in order that it may be temporarily used by the Corporation for the purposes of its business.

(2) Before a requisitioning Order takes effect, the Minister may from time to time alter, by Order published in the Gazette, the date on which such requisitioning Order takes effect.

(3) A requisitioning Order shall have the effect of authorizing the Corporation, with effect from the date specified in the Order, to take possession of the property specified in the Order and to use such property temporarily for the purpose of the business of the Corporation in any manner whatsoever.

[§9, Law 2 of 1976.]

(4) Where any property is requisitioned by a requisitioning Order, the Minister may, by Order (hereafter in this Act referred to as "derequisitioning Order") published in the Gazette, derequisition with effect from such date as shall be specified in the derequisitioning Order, such property or such part of the property as shall be specified therein

(5) Before a derequisitioning Order takes effect, the Minister may from time to time alter, by Order published in the Gazette, the date on which such derequisitioning Order takes effect.

(6) Where, immediately before the date on which any property is requisitioned under this Act, a person, other than the

owner of such property, was entitled to possession of or any other right, title or interest in such property under the terms of any arrangement, agreement (formal or informal), lease or notarially executed instrument that arrangement, agreement (formal or informal), lease or notarially executed instrument shall be deemed for all purposes to have expired on that date.

(7) Where any property is derequisitioned by a derequisitioning Order such Order shall be deemed to have the effect of reviving any arrangement, agreement (formal or informal), lease or notarially executed instrument subsisting on the date on which the property was requisitioned, and any question which may arise as to any right, title or interest, in or over that property shall be determined accordingly.

(8) Notwithstanding anything to the contrary in this Act or in any other law the provisions of subsection (7) shall not apply to any arrangement, agreement (formal or informal), lease or notarially executed instrument affecting any movable or immovable property of the State subsisting on the date on which the property was requisitioned.

(9) Where any property requisitioned for the Corporation is permanently required for the purpose of the business of the Corporation, such property may be vested in the Corporation by a vesting Order.

37. (1) Notwithstanding that any movable or immovable property has vested in the Corporation by virtue of a vesting Order, the Minister may at any time before an award as to compensation is made in respect of that property under section 65, by subsequent Order published in the Gazette (hereafter in this section referred to as a "divesting Order") revoke that vesting Order in respect of that property or such part of that property as shall be specified in that divesting Order.

Revocation of vesting Order. [§10, Law 2 of 1976.]

(2) The following provisions shall apply in any case where a vesting Order in respect of any movable or immovable property is [§10, Law 2 of 1976]

revoked by a divesting Order:—

- (a) that property or the specified part of that property, as the case may be, shall be deemed never to have vested in the Corporation by virtue of that vesting Order, and shall cease to be notified property, and any question which may arise as to any right, title or interest, in or over that property or the specified part of that property, as the case may be, shall be determined accordingly;
- (b) that property or the specified part of that property, as the case may be, shall be deemed to have been and to be property which was requisitioned by a requisitioning Order with effect from the date on which that vesting Order took effect and was derequisitioned by a derequisitioning Order with effect from the date of the revocation of that vesting Order;
- (c) all claims made under this Act to the compensation payable in respect of that property and all proceedings taken under this Act in regard to such claims before that vesting Order was revoked shall be deemed to be null and void, and fresh claims to compensation in respect of that property or the specified part of that property may be made under this Act and fresh proceedings in regard to such fresh claims may be taken under this Act:

Provided that nothing in the preceding provisions of this subsection shall be deemed to revive any arrangement, agreement (formal or informal), lease or notarially executed instrument entered into in respect of that property by any foreign-owned petroleum company and subsisting on the date on which that property was vested.

(3) The preceding provisions of this section shall have effect notwithstanding anything in any other provisions of this Act or in any other written law.

37A. Where a vesting Order under section 35 or a divesting Order under section 37 in respect of any land or part thereof is published in the Gazette, the Corporation shall cause a copy of such Gazette, to be transmitted to the Registrar of Lands of the district in which the land or part thereof is situated, and such Registrar shall duly register such copy under the Registration of Documents Ordinance as an instrument affecting land.

Copies of Gazettes containing vesting Orders and divesting Orders to be transmitted to the Registrar of Lands who shall duly register them. [§11, Law 2 of 1976.]

38. (1) Any person specially or generally authorized in that behalf by the Minister or the Chairman of the Board of Directors may take possession of any property vested in or requisitioned for the Corporation.

Taking possession of property vested in, or requisitioned for, the Corporation.

(2) Any officer of the Corporation authorized in that behalf by the Chairman of the Board of Directors shall, by notice given to the person in occupation or in possession of any property vested in or requisitioned for the Corporation or exhibited in some conspicuous place on or in the vicinity of such property—

- (a) inform that such authorized officer intends to take possession of such property for and on behalf of the Corporation on such date and at such time and place as shall be specified in the notice, and
- (b) require any person interested or his authorized agent to be present on the date and at the time and place so specified, and to allow and assist such authorized officer to take possession of such property for and on behalf of the Corporation.

Where such property is a motor vehicle, the notice aforesaid may be given to the registered owner of that vehicle within the meaning of the Motor Traffic Act instead of being given to the person in possession of that motor vehicle.

(3) Any notice required to be given to any person under the preceding provisions of this section shall be deemed to be given to him if such notice is sent to him by registered letter through the post.

(4) Any person who contravenes any requirement of any notice given to him under this section shall be guilty of an offence under this Act.

Provisions of sections 38 and 39 to apply *mutatis mutandis* to taking possession of property belonging to the Corporation on termination of agreement of hire or lease [§2, Law 2 of 1976.]

38A. (1) The provisions of sections 38 and 39 shall, *mutatis mutandis*, apply to the taking of possession of any property belonging to the Corporation on the termination of any agreement under which such property was let or leased for the purpose of being used as a distribution outlet of petroleum.

(2) Where an agreement under which any property belonging to the Corporation was let or leased for the purpose of being used as a distribution outlet of petroleum is terminated, the person in occupation of such property shall remove or cause to be removed from such property any fixture or movable property belonging to him and hand over vacant possession of such property to the authorized officer on or before the date specified in the notice given under section 38-

(3) Any person who fails to comply with the requirements of subsection (2) shall be guilty of an offence and shall, on conviction after trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding six months or to a fine not exceeding one thousand rupees, and in the case of a continuing offence to an additional fine not exceeding fifty rupees for each day during which such offence is continued after conviction thereof.

Prevention of or obstruction to taking possession of property for or on behalf of the Corporation.

39. (I) Every person who—

(tf) prevents, obstructs or resists, or

(b) directly or indirectly causes anyone to prevent, obstruct or resist,

any person from or in taking possession, under section 38, of any property for and on behalf of the Corporation shall be guilty of an offence under this Act.

(2) Where an officer authorized by the Minister or the Chairman of the Board of Directors under section 38 to take possession of any property for and on behalf of the Corporation is unable or

apprehends that he will be unable to take possession of such property because of any obstruction or resistance that has been or is likely to be offered, on his making an application in that behalf to the Magistrate's Court having jurisdiction over the place where that property is kept or situated, the Magistrate shall issue an order of the Court directing the Fiscal to deliver possession of that property to him for and on behalf of the Corporation,

(3) Where an order under subsection (2) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute that order and shall in writing report to the Court the manner in which that order was executed.

(4) Where an order under subsection (2) is issued to the Fiscal by a Magistrate, the execution of such order shall not be stayed in any manner by reason of any steps taken or proposed to be commenced in any court with a view to questioning, varying or setting aside such order.

(5) For the purpose of executing an order issued by a Magistrate's Court under subsection (2), the Fiscal or any person acting under his direction may use such force as may be necessary to enter any place where any movable property to which that order relates is kept and seize such movable property, or to enter any land, building, structure or other immovable property to which that order relates and to eject any person in occupation thereof, and to deliver possession of such movable property, land, building, structure or other immovable property to the person who is authorized to take possession thereof for and on behalf of the Corporation.

40. (1) Where any immovable property, other than any notified property, is required to be acquired for the purpose of the business of the Corporation and the Minister, by Order published in the Gazette, approves of the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired compulsorily under the Land Acquisition Act and be transferred to the Corporation.

Acquisition of immovable property under the Land Acquisition Act for the Corporation-

(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act, for the Corporation, shall be paid by the Corporation.

provisions of subsection (I) (c) or subsection (1) (d) or who furnishes information knowing such information to be false or obstructs any person in the exercise of the powers conferred on him by subsection (1) (a) or subsection (!)(&) shall be guilty of an offence under this Act. [§5,5 of 1963.]

Special grant or lease of State property to the Corporation.

41. Where any immovable property of the State is required for the purpose of the business of the Corporation, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the State Lands Ordinance, and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property to the Corporation.

43. (1) Any person who carries on business as an importer, exporter, seller, supplier, or distributor of petroleum shall, if a written request in that behalf is made to him by the Corporation, make available for use by the Corporation any equipment or facilities maintained by him for the purpose of that business subject to such terms and conditions (including terms as to the charges to be made for such use) as may be determined by agreement between that person and the Corporation or, in the absence of such agreement, by arbitration as hereinafter provided. Power of Corporation to make use of equipment and facilities of other persons.

Power to require information and to inspect.

42. (1) The Chairman of the Board of Directors or any person authorized in that behalf by such Chairman may—

(2) Where the terms and conditions subject to which any equipment or facilities of any person referred to in subsection (1) is or arfe to be used by the Corporation have to be determined by arbitration, the arbitration shall be conducted—

(a) inspect any movable or immovable property which had been, or is being or is or was intended to be, used for the importation, exportation, storage, sale, supply or distribution of petroleum; or

(a) by a single arbitrator nominated by agreement between that person and the Corporation; or

(b) inspect any movable or immovable property which had been, or is being or is or was intended to be, used for the carrying on of such other business as may be incidental or conducive to the purposes referred to in paragraph (a);

(b) in default of such agreement, by two arbitrators nominated respectively by that person and the Corporation.

[§5, 5 of 1963.]

(c) request any person to furnish information with regard to any matter within his knowledge relating to any movable or immovable property referred to in paragraph (a) or paragraph (b); and

(3) Where in any case referred to in paragraph (b) of subsection (2) there is a difference of opinion among the two arbitrators in respect of any matter, the matter shall be referred for decision by an umpire chosen by them, and, if they are unable to agree, by an umpire appointed for the purpose by the District Court of Colombo on application made by any party to the arbitration proceedings.

[§5, 5 of 1963.]

[§5, 5 of 1963.]

(d) request any person to furnish information with regard to any matter within his knowledge relating to the business of importation, exportation, storage, sale, supply or distribution of petroleum, whether carried on by himself or any other person, and the persons employed for the purposes of such business including details of their salaries, gratuities, compensation, or other benefits accruing to them.

No stamp duty shall be payable in respect of any application under this subsection.

(2) Any person who fails, without reasonable cause, to comply with the

Each party shall be liable to pay in equal-shares the amount of the fee payable to an umpire chosen or appointed under this subsection.

(4) The decision of a single arbitrator or where there are two arbitrators their agreed decision, or in any case referred to in subsection (3) the decision of an umpire, shall be final and conclusive for the purposes of this section and shall be binding on the Corporation and on the person whose equipment or facilities is or are to be used by the Corporation.

(5) Regulations may be made in respect of all matters relating to or connected with the conduct of proceedings upon arbitration under this section.

PART IV

COMPENSATION

Notice to persons entitled to make claims to the compensation payable under this Act in respect of any property vested in or requisitioned for the Corporation.

44. Where any property is vested in or requisitioned for the Corporation, the Chairman of the Board of Directors shall, by notice published in the Gazette and in such other manner as may be determined by him, direct every person who was interested in such property immediately before the date on which such property was so vested or requisitioned to make, within a period of one month reckoned from the date specified in the notice, a written claim to the whole or any part of the compensation payable under this Act in respect of such property, and to specify in the claim—

- (a) his name and address,
- (b) the, nature of his interest in such property,
- (c) the particulars of his claim, and
- (d) how much of such compensation is claimed by him.

Provisions to be complied with by the Chairman on the receipt of claims to compensation.

45. Upon the receipt of any claim made under section 44 to the compensation payable under this Act in respect of any property vested in or requisitioned for the Corporation, the Chairman of the Board of Directors shall cause the following documents to be sent to the claimant by registered letter through the post :—

- (a) a copy of any such report in regard to the condition of the aforesaid property as has been made by or

under the authority of the Corporation under any regulation made under this Act, if a copy of that report has not already been served on the claimant;

- (b) a copy of any such assessment of the compensation payable under this Act in respect of the aforesaid property as has been made by or under the authority of the Corporation;
- (c) a notice requiring the claimant, within the time specified in the notice :—

- (i) to furnish to the Corporation a written statement setting out whether or not he agrees with the report referred to in the preceding paragraph (a) and the assessment referred to in the preceding paragraph (b) and, if he does not so agree, any objections that he may have to such report and assessment, and the grounds of such objections; and
- (ii) to produce to the Corporation all documents, and in particular the document in regard to the condition of the aforesaid property, relied on by him in support of any such objection.

46. (1) The Chairman of the Corporation shall refer to the Compensation Tribunal for determination the amount of the compensation payable in respect of any property vested in or requisitioned for the Corporation and shall transmit to the Tribunal all claims made to such compensation, together with all documents furnished by the claimants in support of their claims, and all documents copies of which have been served on or transmitted to the claimants by the Corporation.

Reference to the Compensation Tribunal for an award as to compensation in respect of any property vested in or requisitioned for the Corporation.

(2) A reference made under subsection (1) to the Compensation Tribunal is hereafter in this Act referred to as a " reference for an award as to compensation ".

Compensation in respect of properties vested in the Corporation.

47. (1) The amount of compensation to be paid under this Act in respect of any property vested on any date in the Corporation shall be the actual price paid by the owner for the purchase of such property and an additional sum which is equal to the reasonable value of any additions and improvements made to such property by any person who was interested, or if such purchase price is not ascertainable, be an amount equal to the price which such property would have fetched if it had been sold in the open market on the day on which the property was vested in the Corporation ;

Provided that where such property consists of movable property or anything attached to the earth or permanently fastened to anything attached to the earth, a reasonable amount for depreciation shall be deducted from the amount which represents the price actually paid for its purchase by the person entitled to the compensation payable in respect of such property, if such compensation is based on such price;

[§2, Law 50 of 1973.]

Provided, further, that where such property consists of land or buildings, the amount of compensation to be paid shall be an amount equal to the price which such land or buildings would have fetched if such land or buildings had been sold in the open market on the day on which such land or buildings was or were vested in the Corporation.

(2) Where any right, interest or benefit in any movable or immovable property derived under the terms of any arrangement, agreement (formal or informal), lease or notorially executed instrument is vested in the Corporation, the amount of compensation to be paid under this Act shall be the actual price paid by the holder for the acquisition of such right, interest or benefit:

Provided that a proportionate amount shall be deducted on account of the period for which the holder has enjoyed such right, interest or benefit.

Compensation in respect of property requisitioned for the Corporation.

48. (1) The amount of compensation to be paid in respect of any property requisitioned for the Corporation shall be a sum equal to the rent which might

reasonably be expected to be payable by a tenant in occupation of such property, during the period of the requisition, under a lease granted immediately before the beginning of that period whereby the tenant undertakes to pay all usual rates and taxes and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain such property in a state to command that rent.

(2) The compensation under subsection (1) in respect of any property shall be considered as accruing due from day to day during the period of the requisitioning of such property and shall be apportionable in respect of time accordingly.

48A. In determining compensation payable in respect of any land vested in, or requisitioned for, the Corporation,—

In determining compensation, certain buildings not to be taken into account and certain deductions to be made.

(i) where any building had been constructed on, or any other improvements had been effected to, such land, on any date prior to the date on which such land was so vested or requisitioned, by any foreign-owned petroleum company, no account shall be taken of such building or improvements in the computation of the market value of such land under section 47 or in the rent payable under section 48, as the case may be, and

[§3, Law 50 of 1973.]

(ii) any sum which had been paid in advance to the owner of such land as rent for any period after the date on which such land was so vested, or requisitioned, as the case may be, shall be deducted from the amount of the compensation.

49. (1) The amount of compensation to be paid to any person in respect of any property requisitioned for or vested in the Corporation shall be proportionate to the interest such person had in such property on the date on which the property was requisitioned for or vested in the

Proportionate payment of compensation, and interest on compensation, until date of payment.

Corporation:

Provided, however, where property requisitioned is subsequently vested in the Corporation, the apportionment of the compensation in respect of such property shall be proportionate to the interest any person had in such property on the date on which such property was requisitioned for the Corporation.

(2) Any compensation payable under this Act shall carry interest, as from the date on which it accrues due until payment, at such rate as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

terminated under the provisions of section 5J, then, from the amount of such compensation, the Corporation shall pay the sum so specified to the Commissioner of Labour for the payment of such gratuity or other benefit, or

(b) where the amount of such compensation has been applied in payment of any sum referred to in the preceding paragraphs (a) and (aa), the balance if any, of that amount remaining after it has been so applied shall be paid by the Corporation to the person or persons entitled thereto.

[§6,5 of 1963.]

When compensation in respect of vested property accrues due.

50. The compensation payable in respect of any property vested in the Corporation shall be considered as accruing due from the date on which that property was so vested.

53. The mode and manner of payment of compensation under this Act shall be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

Mode of payment of compensation.

Right to compensation.

51. No compensation in respect of any property vested in or requisitioned for the Corporation shall be paid to any person under this Act unless such person is entitled to such compensation according to an award (hereafter in this Act referred to as an "award as to compensation") made by the Compensation Tribunal under this Act.

54. Where any compensation payable to any person under this Act is not accepted by him when it is tendered to him or where such person is dead or not in existence or not known, it shall be paid to any District Court or Primary Court, according as the amount of the compensation exceeds or does not exceed one thousand five hundred rupees, to be drawn by the person or persons entitled thereto.

Provision for cases where compensation is not accepted, &c. [§4. Law 50 of 1973.]

Deductions from compensation.

52. The following provisions shall apply in any case where a person is entitled to compensation in respect of any property rested in or requisitioned for the Corporation:—

54A. Notwithstanding anything to the contrary in this Act, or in any other written law, the Corporation may pay to any person as compensation in respect of property vested in, or requisitioned for, the Corporation under this Act, where such vesting or requisitioning is made on or after the first day of August, 1970, such amount as the Minister may, pursuant to any agreement reached between the Minister and such person in respect of the amount of compensation for such property, direct the Corporation to pay.

Compensation payable in respect of property vested in or requisitioned for the Corporation on or after August 1, 1970- [§5. Law 50 of 1973.]

[§6,5 of 1963.]

(aa) where any sum has been certified under the hand of the Commissioner of Labour to the Corporation to be due from such person as a gratuity or other monetary benefit to any other person whose employment has been

54B. (I) The Chairman of the Board of Directors may before the determination of a claim for compensation under this Act pay to a person whom he considers entitled to such compensation an advance, and any sum so paid shall be deducted from the amount of the compensation awarded to him.

Power of the Chairman of the Board of Directors to pay advances on account of compensation. [§5, Law 50 of 1973.]

(2) Where any sum is paid after the date of commencement of this Act to any person as an advance on account of compensation to be paid to such person under this Act in respect of any land vested in or requisitioned for the Corporation, such payment shall be deemed to have been paid under subsection (1) and accordingly such sum shall be deducted from the amount of the compensation awarded to such person.

(2) The remuneration of the members of the Tribunal and other expenses of the Tribunal shall be paid by the Secretary to the Ministry out of the funds provided for the purpose by the Corporation.

Finality as to payment of compensation. [§5, Law 50 of 1973.]

54C. Where compensation under this Act has been paid in respect of any land in accordance with the provisions of this Act, no further claim against the Corporation either by the person to whom such compensation was paid or by any other person shall be allowed and no action shall be instituted against the Corporation in any court in respect of such further claim.

57. (1) The Chairman shall convene meetings of the Tribunal for the consideration and determination of references for awards as to compensation made to the Tribunal.

Meetings of the Tribunal. [§8, Law 50 of 1973.]

(2) Three members of the Tribunal, one of whom shall be the Chairman or Vice-Chairman, shall be summoned to a meeting of the Tribunal. The members to be summoned shall be determined by the Chairman.

(3) Where the Chairman or the Vice-Chairman is summoned to a meeting of the Tribunal, the Chairman or Vice-Chairman, as the case may be, shall preside at that meeting,

PART V

COMPENSATION TRIBUNAL

Constitution of the Compensation Tribunal. [§6, Law 50 of 1973.]

55. (1) There shall be established for the purposes of this Act, a Compensation Tribunal (hereinafter referred to as the "Tribunal"), consisting of five members appointed by the President of whom at least three shall be persons with judicial or legal experience.

(4) A member of the Tribunal who is interested in any matter which is a subject of a reference for an award as to compensation or who has been consulted as an attorney-at-law or in any other capacity in regard to that matter by or on behalf of any person interested therein shall not participate in any proceedings of a meeting of the Tribunal on such reference.

(2) A person shall be disqualified for being appointed or being a member of the Tribunal if he is a Member of Parliament or a member of the Corporation.

(5) A meeting of the Tribunal may from time to time be postponed or adjourned.

(3) A member of the Tribunal with judicial or legal experience shall be appointed to be the Chairman, and another member with similar experience shall be appointed to be the Vice-Chairman, of the Tribunal by the President.

58. (1) Every reference for an award as to compensation shall be considered and determined at a meeting of the Tribunal.

Proceedings before Tribunal. [§9, Law 50 of 1973.]

(4) Every member of the Tribunal shall, unless he earlier vacates office or is removed therefrom by the President, hold office for a period of three years. Any member of the Tribunal who vacates office by effluxion of time shall be eligible for reappointment.

(2) The Chairman shall fix a date, time and place for the consideration and determination by the Tribunal of each reference for an award as to compensation.

Remuneration of members of the Tribunal and expenses of the Tribunal. [§7, Law 50 of 1973.]

56. (1) The members of the Tribunal shall be remunerated at such rates as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

59. (1) The Chairman or the Vice-Chairman of the Tribunal shall, for the purposes of the consideration and determination of any reference for an award as to compensation, have all the powers of a District Court—

Power to summon witnesses, &c. [§10, Law 50 of 1973.]

(a) to summon and compel the attendance of witnesses,

(b) to compel the production of documents; and

(c) to administer any oath or affirmation to witnesses.

(2) Every person who attends a meeting of the Tribunal as a witness shall be paid as travelling and other expenses such sum as shall be determined by the Chairman or in his absence the Vice-Chairman of the Tribunal.

Persons giving evidence bound to state the truth.

60. Every person giving evidence on any matter before a meeting of the Tribunal shall be bound to state the truth on such matter.

Determination of the Tribunal.

61. (1) The determination made at a meeting of the Tribunal on any matter considered at that meeting shall be deemed to be the determination of the Tribunal on that matter.

(2) Where the members of the Tribunal who consider any matter disagree with regard to the determination on that matter, the determination of the majority of them shall be the determination of the Tribunal on that matter, and, where the members are equally divided in their opinion, the determination supported by the Chairman of the meeting by which that matter is considered shall be the determination of the Tribunal on that matter.

(3) Every determination of the Tribunal shall contain the reasons therefor.

Tribunal may regulate its procedure at meetings.

62. Subject to the provisions of this Act in respect of procedure, the Tribunal may lay down the procedure to be observed at meetings of the Tribunal.

Chairman of the Board of Directors and claimants to compensation to be given an opportunity of being heard before the making of an award.

63. Where a reference for an award as to compensation is made to the Tribunal, the Tribunal shall, before making such award give the Chairman of the Board of Directors and every person who has made a claim to compensation an opportunity of being heard either in person or by an agent authorized in that behalf.

Provision in regard to evidence.

64. (1) Where a copy of any report made by or under the authority of the Corporation in regard to the condition of

any property vested in or requisitioned for the Corporation is served on any claimant to compensation in respect of such property, then, in so far as that claimant is concerned, that report shall, in any proceedings relating to the claim of the claimant before the Tribunal, be prima facie evidence of the facts stated therein until the contrary is proved.

(2) Where a copy of the Corporation's assessment of compensation in respect of any property is served on any claimant to such compensation, that assessment shall, in any proceedings relating to the claim of the claimant before that Tribunal, be prima facie evidence of the facts stated therein until the contrary is proved.

(3) Where a report in regard to the condition of any property vested in or requisitioned for the Corporation, or the Corporation's assessment of any compensation, is prima facie evidence of the facts stated therein under the preceding provisions of this section in any proceedings relating to a claim to compensation before the Tribunal, then, the claimant shall not be entitled to produce in those proceedings any document in support of any objection to such report OF assessment unless that document had been produced to the Corporation as required by or under this Act.

65. (1) Where a reference for an award as to compensation is made to the Tribunal in respect of any property vested in or requisitioned for the Corporation, the Tribunal shall, after considering all such matters and hearing all such witnesses as may be necessary for the purpose and after complying with the provisions of section 63 and section 64, make, save as otherwise provided in subsection (2), an award determining—

An award as to compensation by the Tribunal on a reference.

(a) whether or not each person who has made a claim to compensation is a person entitled to compensation, and if so, the capacity in which he is so entitled,

(b) the amount of the compensation payable in respect of such property in accordance with the provisions of this Act, and

(c) the apportionment of the compensation among the persons entitled to compensation:

Provided that where there is a dispute as to the persons entitled to such compensation or as to the apportionment of such compensation among the persons entitled to such compensation, the Tribunal shall defer making an award and shall refer the dispute for decision to the District Court within whose local jurisdiction such property, being immovable property, is situate, or being movable property, was kept at the time it was so vested, and shall, after such Court makes its decision on such dispute, make an award in accordance with such decision.

(2) Where no person makes a claim to compensation in respect of any property vested in or requisitioned for the Corporation, it shall not be necessary to determine in the award under this section the matters specified in paragraphs (a) and (c) of subsection (1) and to comply with the provisions of subsection (3) relating to the giving of notice of the award to claimants to compensation.

(3) The Tribunal shall cause written notice of its award to be given to the Chairman of the Board of Directors and the claimants to compensation.

(4) An award of the Tribunal shall be final and shall not be called in question in any court.

PART VI

GENERAL

Order fixing prices and prescribing conditions of sale of petroleum.

66. (1) The Minister may, with the concurrence of the Minister in charge of the subject of Finance, by a Petroleum Price Order (hereafter referred to as an " Order "), in respect of petroleum of any class or description referred to in the Order, specify or determine any one or more of the following matters;—

- (a) the maximum spot price or rate,
- (b) the minimum spot price or rate,

- (c) the spot price or rate,
- (d) the maximum amount or percentage of discount or rebate,
- (e) the formula fixing the price,

at which such petroleum shall be sold, supplied or delivered.

(2) Any Order under subsection (1) may—

- (a) be limited in operation to petroleum sold, supplied or delivered by the Corporation, or
- (b) be made applicable to any petroleum sold, supplied or delivered whether by the Corporation or any other person,
- (c) be limited in operation to any particular place or area and in duration for any specified time or period,
- (d) prescribe the conditions of sale, supply or delivery of any petroleum.

(3) Every Order under this section shall come into operation when such Order is made and signed by the Minister or on such later date as may be specified in the Order.

(4) After an Order has been signed by the Minister, public notice thereof shall forthwith be given—

- (a) by publication of the Order in the Gazette; and
- (b) in such other manner as may be prescribed.

(5) An Order under this section, upon publication in the Gazette, shall be deemed to be as valid and effectual as if it were herein enacted.

(6) Any Order under subsection (1) may be altered, varied, modified or revoked by the Minister, with the concurrence of the Minister in charge of the subject of Finance.

(7) Any Order under this section may provide that any such provisions of the Control of Prices Act or any regulations made thereunder, as may be specified in the Order shall, with such modifications as may be so specified, apply in relation to that Order.

Regulations

*68. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of the following matters:—

- (a) any matter required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made ;
- (b) the establishment and administration of a Reward Fund for such purposes as may be prescribed;
- (c) the prevention of the theft of, or a damage to, or the commission of nuisance on, any property used by the Corporation, and the imposition of penalties on, and the recovery of compensation from, persons responsible for such theft, damage or nuisance;
- (d) any matter regarding the assessment and payment of compensation under this Act,

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

• Section 67 is repealed by Law No. 2 of 1976.

(5) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

(6) Any regulation made by the Minister shall, when approved by Parliament, be as valid and effectual as if it were herein enacted. Notification of such approval shall be published in the Gazette.

69. (1) Every person who—

Offences and penalties.

- (a) contravenes or fails to comply with any section or provision of this Act or any regulations made thereunder or any order or directions lawfully given under this Act or any regulations made thereunder shall be guilty of an offence under this Act;
- (b) aids or abets any person or persons in the commission of an offence under this Act shall be guilty of an offence under this Act
- (bb) contravenes or fails to comply with the provisions of any Order made by the Minister under section 5c shall be guilty of an offence under this Act; [§9,5 of 1963.]
- (bbb) sells, alienates or disposes of any equipment of the Corporation without the prior authority of the Corporation, or causes wilful damage to or defaces any such equipment or contaminates any petroleum product, or sells or is concerned in the sale of any petroleum product, having reason to believe that it is contaminated, shall be guilty of an offence under this Act. [§14, Law 2 of 1976]
- (c) attempts to commit or does any act preparatory to or in furtherance of the commission of an offence under this Act shall be guilty of an offence under this Act.

(2) Every person who commits an offence under this Act shall, on conviction after

summary trial before a Magistrate—

(a) for the first offence be liable to imprisonment of either description for a period not exceeding one year or a fine not exceeding one thousand rupees, or both such imprisonment and fine;

(b) for a subsequent offence, be punished with imprisonment of either description for a term not exceeding two years, and shall, in addition, be liable to a fine not exceeding two thousand rupees.

(3) Notwithstanding anything to the contrary, every offence under this Act shall be a cognizable offence within the meaning and for the purposes of the Code of Criminal Procedure Act.

Power of Board of Directors to compound claims.

70. The Board of Directors may compound any claim or demand made against the Corporation by any person for such sum or other compensation as the Board may deem sufficient.

Corporation exempted from the provisions of the Prescription Ordinance. [§15, Law 2 of 1976.]

70A. (1) The claims of the Corporation against any person whomsoever, for the recovery of any sum of money which is due to the Corporation, shall not be held to be barred, limited or prejudiced by any provisions of the Prescription Ordinance.

(2) The provisions of subsection (1) of this section shall—

(a) be deemed for all purposes to have come into operation on May 29, 1961 ;

(b) not apply to any sum of money which shall be or become due to the Corporation on or after the date of commencement of this Act, and

(c) have effect notwithstanding anything to the contrary in any other written law.

Liability of directors and certain officers of a body corporate for offence committed by that body.

71. When an offence under this Act is committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate shall be deemed to be guilty of that offence unless he proves that that

offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions and in all the circumstances.

72. (1) Where any property is subject to a mortgage or lease at the time when that property is vested in the Corporation under this Act, the rights of the mortgagee or of the purchaser of the mortgaged property under a mortgage decree, or of the lessee, shall, notwithstanding the provisions of section 35 (3), be limited to any sum paid under this Act as compensation in respect of such property.

Provisions in regard to mortgage and leases.

(2) Nothing in this Act shall affect the right of a mortgagee to have recourse to any property or security other than that vested in the Corporation under this Act for the recovery of the debt secured by the mortgage.

(3) Where any property is subject to an arrangement, agreement (formal or informal), lease, or notarially executed instrument at the time when that property is requisitioned for the Corporation under this Act, the rights of the parties to such arrangement, agreement, lease or instrument shall, notwithstanding the provisions of section 36 (6), be limited to any sum paid under this Act as compensation in respect of that property.

73. Any company or other body of persons may, notwithstanding anything to the contrary in any written law or instrument relating to its functions, enter into and perform or carry out all such contracts and agreements with the Corporation as may be necessary for the exercise of the powers of the Corporation.

Power of companies, &c., to enter into contracts with the Corporation.

74. (1) No suit or prosecution shall lie—

(a) against any Minister for any act which in good faith is done or purports to be done by him under this Act; or

(h) against the Corporation for any act which in good faith is done or purports to be done by the Corporation under this Act; or

Protection for action taken under this Act or on the direction of the Board of Directors.

(c) against any member, officer, servant or agent of the Corporation for any act which in good faith is done or purports to be done by him under this Act or on the direction of the Board of Directors.

(2) Any expense incurred by the Corporation in any suit or prosecution brought by or against the Corporation before any court shall be paid out of the funds of the Corporation, and any costs paid to, or recovered by, the Corporation in any such suit or prosecution shall be credited to the funds of the Corporation.

(3) Any expense incurred by any such person as is referred to in paragraph (c) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or purports to be done by him under this Act or on the direction of the Board of Directors shall, if the court holds that such act was done in good faith, be paid out of the funds of the Corporation, unless such expense is recovered by him in such suit or prosecution.

No writ to issue against person or properly of a member of the Corporation.

75. No writ against person or property shall be issued against a member of the Corporation in any action brought against the Corporation.

This Act to prevail over other written laws.

76. The provisions of this Act shall have effect notwithstanding anything contained in any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail.

Rectification of failures and omissions.

77. Where, in the exercise of their powers, performance of their functions or the discharge of their duties, under this Act, it is found that there has been, at any stage, a failure or omission on the part of the Minister, the Chairman of the Board of Directors, the Corporation or any officer authorized by anyone of the aforementioned to comply with any provisions of this Act or regulations made thereunder, such person may rectify such failure or omission at any time and thereupon any such person shall be

deemed for all purposes to have complied with the provisions of this Act or the regulations made thereunder.

78. In this Act, unless the context Interpretation. otherwise requires—

" Board of Directors " means the Board of Directors constituted under this Act;

"Compensation Tribunal" means the Compensation Tribunal established under this Act;

" Director" means a member of the Board of Directors;

"foreign-owned petroleum company" [§1i, Law 50 of 1973-] means any foreign-owned petroleum company within the meaning of the definition of " foreign-owned petroleum companies" in the Ceylon Petroleum (Foreign Claims) Compensation Act, No. 19 of 1965.*

"formula " means the principles or the basis on which prices shall be calculated and includes any specified method of calculation of such prices ;

"immovable property " means land and includes any interest in, or any benefit to arise out of any land, and any leasehold or other interest held by any person in any State land, and also things attached to the earth or permanently fastened to anything attached to the earth ;

"motor vehicle " has the same meaning as in the Motor Traffic Act;

" person who was interested "

(a) in relation to any immovable property vested in or requisitioned for the Corporation, means a person who, immediately before the

* See Lisi of Enactments omitted from the Revised Edition.

date on which such property was so vested or requisitioned, had an interest in such property as owner, co-owner, mortgagee, lessee or otherwise, whether absolutely for himself or in trust for any other person; and

(b) in relation to any movable property vested in the Corporation, means any person who, immediately before the date on which such property was so vested, had an interest in such property as owner, co-owner, mortgagee, pledgee, hirer or otherwise, whether absolutely for himself or in trust for any other person;

manufactured, from hydro-carbons or hydro-carbon compounds, and any inorganic and natural or synthetic organic compound or mixture which has been used or is being used or is intended to be used as agricultural chemicals of whatever description for the purpose of destroying or inhibiting or controlling the action of plant or animal pest and fungus growth and to increase the productivity and quality of plant life.

"property requisitioned for the Corporation" means property requisitioned for the Corporation by virtue of a requisitioning Order, and any cognate expression shall be construed accordingly; and

[§16, Law 2 of 1976.]

"petroleum" means petroleum and includes any product, or by-product, which may be derived, purchased, prepared, developed, compounded, made, or

"property vested in the Corporation" means property vested in the Corporation by virtue of a vesting Order, and any cognate expression shall be construed accordingly.

CHAPTER 440

CEYLON PENTECOSTAL MISSION

Act No. 21 of 1970. AN ACT TO INCORPORATE THE CEYLON PENTECOSTAL MISSION.

[24th March 1970.]

- Short title. **1.** This Act may be cited as the Ceylon Pentecostal Mission Act.
- Incorporation of the Ceylon Pentecostal Mission. **2.** (1) From and after the date of the commencement of this Act, the members for the time being of the Ceylon Pentecostal Mission (hereinafter referred to as "the Mission ") and such and so many persons as shall after that date be admitted members of the said Mission shall be and are hereby constituted a body politic and corporate (hereinafter referred to as the " Corporation ") with the name of " The Ceylon Pentecostal Mission ".
- (2) The Corporation shall, in the said name and for the purposes hereinafter mentioned, have perpetual succession, and shall and may by the said name sue and be sued in all courts and shall and may have and use a common seal with power to break, alter, and renew the same at its discretion.
- Rules. **3.** (1) It shall be lawful for the Mission from time to time at any general meeting of the members, and by a majority of the members present and voting, to make such rules not inconsistent with this Act, as the Mission may deem expedient for all or any of the following purposes :—
- (a) the admission, withdrawal or expulsion of members;
 - (b) the powers, duties, functions and conduct of the various Pastors, full-time workers and members of the Mission;
 - (c) the procedure to be observed at meetings and in convening meetings and in the transaction of the business of the Mission;
- (d) the administration and management of the property of the Mission ;
- (e) generally the management of the affairs and the accomplishment of the objects of the Mission.
- (2) All members of the Mission shall at all times be subject to the rules for the time being of the Mission.
- 4.** No rule made by the Mission at any general meeting shall be altered, amended or rescinded except by the votes of the majority of the members present and voting at any subsequent general meeting. Alteration of rules-
- 5.** The Corporation shall be able and capable in law to receive and to hold property, both movable and immovable, upon or by virtue of any purchase, grant, gift, or upon or by virtue of any testamentary disposition or otherwise; and all such property shall be held by the Corporation for the purposes of this Act, and subject to the rules for the time being of the said Corporation, with full power (subject to any trust attaching to such property and to the law regulating such trusts) to sell, mortgage, lease, exchange or otherwise dispose of the same and to invest its funds in such manner as may be necessary or expedient for the furtherance of its objects. Power of Corporation to hold property.
- 6.** The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of three members of the Mission duly authorized for the purpose under the rules thereof, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness. Seal of Corporation.

CEYLON PENTECOSTAL MISSION

[Cap. 440]

Saving of
rights of the
Republic and
others.

7. Nothing in this Act contained shall
prejudice or affect the rights of the
Republic, or of any body politic or

corporate, or of any other persons, except
such as are mentioned in this Act, and those
claiming by, from, or under them.

CHAPTER 615

COMPULSORY PUBLIC SERVICE

Acts
Nos.70 of 1961,
11 of 1979.

AN ACT TO MAKE PROVISION FOR ENABLING THE CALLING UP FOR COMPULSORY PUBLIC SERVICE OF PERSONS WHO ARE GRADUATES OF ANY UNIVERSITY ESTABLISHED OR DEEMED TO BE ESTABLISHED UNDER THE UNIVERSITIES ACT OR ANY OTHER UNIVERSITY ESTABLISHED IN SRI LANKA, OR OF ANY UNIVERSITY OUTSIDE SRI LANKA AND WHO UNDERGO A COURSE OF TECHNICAL TRAINING IN ANY UNIVERSITY ESTABLISHED IN SRI LANKA, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[29th December, 1961.]

Short title.

1. This Act may be cited as the Compulsory Public Service Act.

the requirements of paragraphs (a), (b) and (c) of section 32 (1) of that Ordinance.

Graduates to whom this Act applies.

2. The provisions of this Act shall apply to every person who, unless he is in employment or is a Member of Parliament, on or after the date of the commencement of this Act,—

Every such person is in this Act referred to as a "graduate to whom this Act applies".

[§2,11 of 1979.]

(a) becomes a graduate of any University established or deemed to be established under the Universities Act, or any other university established in Sri Lanka to which a grant is made by the Government other than a medical graduate of that university or of that other university; or

2A. (1) It shall be the duty of every medical graduate of any of the Universities established or deemed to be established under the Universities Act or any other university established in Sri Lanka to acquire the experience that is required to obtain from the Ceylon Medical Council a certificate under section 32 of the Medical Ordinance and for that purpose to engage in employment in a resident medical capacity for the period prescribed under that Ordinance in a hospital as may be required of him by the Director of Health Services on such terms and conditions as may be imposed by the Director.

Every medical graduate to acquire experience required to obtain a certificate under section 32 of the Medical Ordinance. [§ 3, 11 of 1979.]

[§2,11 of 1979.]

(b) becomes a graduate of any university outside Sri Lanka other than a medical graduate of that university and thereafter undergoes a course of technical training provided by or in any of the Universities established or deemed to be established under the Universities Act or any other university established in Sri Lanka; or

(2) A medical graduate who is engaged in employment in a resident medical capacity for the purpose of acquiring the experience required to obtain the certificate under section 32 of the Medical Ordinance (such graduate hereafter referred to in this Act as an "intern medical officer") shall not leave that employment during the period of that employment.

[§2,11 of 1979.]

(c) being a medical graduate of any of the Universities established or deemed to be established under the Universities Act or any other university established in Sri Lanka thereafter becomes a medical practitioner within the meaning of the Medical Ordinance or satisfies

2B. Every medical graduate who in the discharge of the obligation imposed on him by section 2A refuses to engage in employment as an intern medical officer when so required by the Director of Health

Failure to discharge obligation under section 2A an offence. [§ 4, 11 of 1979.]

Services or while being engaged in employment as an intern medical officer by the Director of Health Services fails to serve in the capacity for the period for which he is so engaged shall, unless he is declared to be medically unfit to be engaged in that employment or serve in that capacity after a duly conducted medical examination, be guilty of an offence and shall be liable to a fine not exceeding one hundred and fifty rupees for every day during which such refusal or failure continues.

(IA) Every appointment of a graduate subject to compulsory public service to an appropriate office in the public service shall be published in the Gazette within a prescribed period by the authority making that appointment and the appointment shall be deemed to take effect from the date specified therein as the date of his appointment. [§5,11 of 1979.]

(2) A graduate on whom an obligation is imposed by subsection (1) of this section to accept any appointment to any appropriate office in the public service, and to commence to serve in that office, shall, if such graduate is unable to discharge that obligation by reason of his having been declared to be medically unfit to do so after a duly conducted medical examination, be deemed to be exempted from the liability to discharge that obligation.

(3) A graduate who, while he is discharging the obligation imposed on him by subsection (1) of this section to continue to serve in any appropriate office in the public service, is granted permission to pursue a course of technical education in any institution outside Sri Lanka for any period, shall be under an obligation at the end of that period to recommence service in that office, or any other appropriate office in such service to which he may be duly transferred, and to continue to serve in that office or such other office for that period, and accordingly the date on which his appointment to such service is due to expire shall be reckoned by reference to the period on which it would have expired but for the period during which he pursued such course increased by the period during which he pursued such course.

(4) A graduate on whom an obligation is imposed by subsection (1) of this section to continue to serve in any appropriate office in the public service shall, if he does not continue in that office for any period during which he is pursuing a course of technical education in any institution outside Sri Lanka with the prior permission of the person or authority entitled to grant such permission, be deemed to be exempted from the liability to discharge such obligation during that period. The preceding provisions of this subsection shall not be

Graduates to whom this Act applies subject to compulsory public service.

3. (1) Every graduate to whom this Act applies shall, as from the date on which he becomes such a graduate, be a person subject to compulsory public service.

(2) A graduate subject to compulsory public service shall, if he is not duly appointed to any appropriate office in the public service at any time before the expiry of the prescribed period after the date on which he became subject to such service, cease to be subject to such service. Different periods may be so prescribed in respect of different classes of graduates who are subject to compulsory public service.

Obligation imposed on graduates subject to compulsory public service to accept and continue employment in the public service.

4. (1) A graduate subject to compulsory public service who, while he is so subject, is duly appointed to any appropriate office in the public service shall be under an obligation—

- (a) to accept that appointment;
- (b) to commence to serve in that office on the date on which his appointment is due to take effect; and
- (c) subject to the provisions of section 12 and subsection (3) of this section, to continue to serve in that office, or in any other subsequent appropriate office in the public service to which he may be duly transferred or appointed, until the date on which his appointment or subsequent appointment to the service is due to expire (not being a date later than a period of five years after the date on which such person became subject to such service), or until the date on which his appointment to such service is duly terminated, whichever date is earlier.

deemed or construed to affect or prejudice the operation of the provisions of subsection (3) of this section.

(5) Any graduate who fails to discharge the obligation imposed on him by subsection (1) or subsection (3) of this section shall, unless he is a graduate deemed to be exempted from the liability to discharge that obligation, be guilty of an offence under this Act and shall be liable to a fine not exceeding one hundred and fifty rupees for every day during which such failure continues.

Obligation imposed on the Head of a University to give information to the prescribed authority relating to persons who are subject to compulsory public service.

5. (1) The Head of any of the Universities established or deemed to be established under the Universities Act, or any other prescribed University established in Sri Lanka to which a grant is made by the Government, shall be under an obligation to give the prescribed authority written notice of the fact that a person has become a graduate of that University within a period of fourteen days after the date on which such person became such a graduate.

(2) The Head of any University who fails to discharge the obligation imposed on him by subsection (1) of this section shall be guilty of an offence under this Act and shall be liable to a fine not exceeding fifty rupees for every day during which such failure continues.

Obligation imposed on persons in regard to the employment of graduates subject to compulsory public service.

6. (1) Every person shall be under an obligation not to employ, or continue in his employment, any graduate on whom an obligation is imposed by subsection (1) or subsection (3) of section 4 for so long and so long only as such graduate has not discharged that obligation unless such graduate is deemed to be exempted from the discharge of that obligation under this Act:

Provided, however, that it shall be a defence for any person charged with the offence of having failed to discharge the obligation imposed on him by the preceding provisions of this section (in this proviso referred to as "the accused") in relation to any graduate to prove that the accused had no reason to believe that such graduate had not discharged the obligation imposed on him by subsection (1) or subsection (3) of

section 4 and that, as soon as the accused became aware that there was a failure on his part to discharge the obligation imposed on him by the preceding provisions of this section, the accused took immediate steps to discharge that obligation,

(2) Every person who fails to discharge the obligation imposed on him by subsection (1) of this section shall be guilty of an offence under this Act and shall be liable to a fine not exceeding one hundred and fifty rupees for every day during which such failure continues.

(3) No suit or prosecution shall lie against any person for any act which in good faith is done or purported to be done by him in order to discharge the obligation imposed on him by subsection (1) of this section.

7. (1) The Minister may make Orders for or in respect of all matters required or authorized by this Act to be prescribed. Orders.

(2) Any Order made by the Minister shall be published in the Gazette, and shall come into force on the date of such publication, or on such later date as may be specified in the Order.

(3) Any Order made by the Minister shall, on its coming into force as provided in subsection (2) of this section, be as valid and effectual as if it were herein enacted.

8. All offences under this Act may be tried summarily by a Magistrate. Offences under the Act summarily triable.

9. Nothing in the provisions of this Act shall be deemed or construed to affect, prejudice, or curtail in any way— Powers of appointment, &c., of the Cabinet of Ministers or the Public Service Commission or the Judicial Service Commission not to be affected or curtailed by this Act.

(a) the power of appointment, transfer, dismissal and disciplinary control of public officers vested in the Cabinet of Ministers or the Public Service Commission;

or

(b) the power of appointment, transfer, dismissal and disciplinary control of

judicial officers vested in the
Judicial Service Commission,

by the Constitution of the Democratic
Socialist Republic of Sri Lanka, 1978..

Offences under
this Act
committed by
a body of
persons.

10. Where an offence under this Act is
committed by a body of persons (other than
a University), then,—

(a) if that body of persons is a body
corporate, every director or officer
of that body corporate, and

(b) if that body of persons is a firm, every
partner of that firm,

shall be guilty of that offence:

Provided, however, that a director or
officer of such body corporate or a partner
of such firm shall not be deemed to be guilty
of such offence if he proves that such
offence was committed without his
knowledge or that he exercised all due
diligence to prevent the commission of such
offence.

Interpretation.

11. (1) In this Act, unless the context
otherwise requires—

" appropriate office", in relation to a
graduate to whom this Act applies
of any prescribed class or
description, means any office of any
such grade or class in the public
service as may have been prescribed
as being appropriate for the
appointment of the category of
graduates of that class or
description;

" duly appointed", in relation to any
appropriate office in the public
service, means appointed to that
office, under and in accordance
with the provisions of any written
law for the time being applicable to
such appointment, by the person or
authority empowered to make such
appointment by or under that law;

" duly conducted medical examination ",
in relation to any appropriate office
in the public service, means a
medical examination conducted

under and in accordance with the
provisions for the time being
applicable to members of the public
service;

" duly terminated", in relation to any
appropriate office in the public
service, means the termination of
service in that office, under and in
accordance with the provisions of
any written law for the time being
applicable to such termination, but
does not include resignation from
that office without the prior
approval of the person or authority
empowered to terminate such
service;

" duly transferred ", in relation to any
appropriate office in the public
service, means a transfer to or from
that office made or effected, under
and in accordance with the
provisions of any written law for
the time being applicable to such
transfer, by the person or authority
empowered to do so by or under
that law;

" graduate ", in relation to any University,
means a person on whom a degree
or diploma has been conferred by
that University, or who is or will be
entitled to the conferment of such
degree or diploma by reason of his
having completed a successful
course of training or study in that
University;

" Head ", in relation to any University,
means the Vice-Chancellor for the
time being of that University or, in
the absence of a Vice-Chancellor,
the person, by whatever name
called, who for the time being
occupies the position of Head of the
management or administration of
the affairs of that University;

" public service" means the service
consisting of members who are the
holders of paid offices under the
Republic of Sri Lanka, but does not
include the persons referred to in
paragraphs (a) to (j) of the

definition of the expression " public officer" occurring in Article 170 of the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978; and

" technical" means artistic, scientific, or professional.

(2) For the purposes of this Act—

(a) the appointment of a person to any appropriate office in the public service shall be deemed to be due to take effect on the date specified in the letter or other instrument by which such appointment is made, or in the Gazette in which such appointment is published or on such later date to which it may have been postponed by the person or authority who made such appointment; and

(b) the appointment of a person to any appropriate office in the public service shall be deemed to be due to expire if a date is specified in the letter or other instrument by which the appointment was made or in the Gazette in which the appointment is published (not being a date expiring later than a period of five years from the date on which he became subject to compulsory public service), on that date or if a date is not so specified, at the end of such period of five years.

12. The provisions of paragraph (c) of subsection (1) of section 4, and paragraph (b) of subsection (2) of section 11, shall, in their application in the case of any graduate who is a person of the description referred to in paragraph (b) of section 2, have effect as if for the word " five " wherever it occurs in such provisions, there were substituted the word " three ".

Modification of certain provisions of this Act in case of particular graduates.

[§ 6, 11 of 1979.]

CHAPTER 19

COURTS' RECORDS (INSPECTION BY MINISTER OF JUSTICE)

Act
No. 9 of 1958.

AN ACT TO ENABLE THE MINISTER OF JUSTICE TO CAUSE ANY RECORD OF ANY COURT OF JUSTICE TO BE PRODUCED FOR HIS INSPECTION IF HE CONSIDERS SUCH INSPECTION NECESSARY FOR THE PERFORMANCE OF HIS DUTIES.

[12th March, 1958.]

Short title.

1. This Act may be cited as the Courts Records (Inspection by Minister of Justice) Act.

record to which such direction relates to be transmitted to or delivered at the office of the Secretary to the Ministry.

Minister may cause a record of any Court of Justice to be produced for his inspection.

2. (1) The Minister may direct any record of any Court of Justice to be produced for his inspection if he considers such inspection necessary for the performance of his duties,

(2) Where a record to which a direction of the Minister under section 2 relates-

(a) is being used in any trial, inquiry or other proceeding that is in progress. or

(b) is with the Attorney-General, or

(c) has been destroyed in accordance with the provisions of the Destruction of Valueless Documents Ordinance,

(2) A direction of the Minister under subsection (1) in respect of a record of any Court of Justice shall be communicated in writing by the Secretary to the Ministry-

(a) where such court is the Supreme Court, to the Chief Justice,

(b) where such court is the Court of Appeal, to the President of that Court,

(c) where such court is the High Court, to the Judge of that Court.

(d) where such court is a District Court, to the Judge of that Court,

(e) where such court is a Family Court, to the Judge of that Court,

(f) where such court is a Magistrate's Court, to the Magistrate of that Court, and

(g) where such court is a Primary Court, to the Judge of that Court.

it shall be the duty of the person to whom such direction is communicated under section 2 (2) to report in writing to the Minister that such record is being so used or is with the Attorney-General or has been so destroyed, and, unless such record has been so destroyed, to cause it to be transmitted to or delivered at the office of the Secretary to the Ministry as soon as it is available.

(3) Where it is manifest on the face of the record, or it is made manifest in any other way, that the record is required in the court on any particular day, it shall be the duty of the Secretary to cause the record to be returned before that day.

Duty of person to whom a direction under section 2 is communicated to comply with it.

3. (1) Subject to the provisions of subsection (2), it shall be the duty of the Chief Justice, President of the Court of Appeal, Judge of the High Court, District Judge, Judge of the Family Court, Magistrate, or Judge of the Primary Court, to whom a direction of the Minister under section 2 is communicated, to cause the

4. In this Act-

" Minister " shall mean the Minister in charge of the subject of Justice ;

"Secretary to the Ministry" or " Secretary " shall mean the Secretary to the Ministry charged with the subject of Justice.

Interpretation.

CHAPTER 234

CEYLON SHIPPING CORPORATION

Act AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A SHIPPING CORPORATION TO
 No. 11 of 1971. OPERATE SERVICES FOR THE TRANSPORT OF GOODS, MAILS AND PASSENGERS
 BY SEA AND TO CARRY ON BUSINESS AS SHIPOWNERS, CHARTERERS OF SHIPS
 AND VESSELS. SHIP BROKERS. AND SHIPPING AGENTS, TO CARRY OUT THE
 BUILDING, MAINTENANCE, REPAIR AND OVERHAUL OF SHIPS AND VESSELS, TO
 VEST IN SUCH CORPORATION THE UNDERTAKING CARRYING ON BUSINESS
 UNDER THE NAME AND STYLE OF THE CEYLON SHIPPING CORPORATION
 LIMITED, TO REGULATE THE POWERS AND DUTIES OF SUCH CORPORATION. AND
 TO MAKE PROVISION FOR PURPOSES CONNECTED WITH THE AFORESAID
 MATTERS.

[9th March. 1971.]

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|---|---|--|----------------------------|
| Short title. | 1. This Act may be cited as the Ceylon Shipping Corporation Act. | (c) to carry out the building, maintenance, repair and overhaul of ships and vessels. | |
| Establishment of the Ceylon Shipping Corporation. | 2. (1) There shall be established, with effect from such date as may be appointed for the purpose by the Minister by Order published in the Gazette*, a corporation which shall be known as the Ceylon Shipping Corporation (hereafter in this Act referred to as "the Corporation"), and which shall consist of the persons who are for the time being members of the Corporation under section 3.

(2) The Corporation shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name. | 5. (1) The Corporation may exercise all or any of the following powers:— | Powers of the Corporation. |
| Members of the Corporation. | 3. The members of the Board of Directors shall be the members of the Corporation. | (a) to purchase, charter, build or otherwise acquire, mortgage, sell, exchange and let out on hire or charter, or otherwise deal with or dispose of, any ship or vessel; | |
| Objects of the Corporation. | 4. The objects of the Corporation shall be—

(a) to operate services for the transport of goods, mails and passengers by sea;

(b) to carry on business as shipowners, charterers of ships and vessels, ship brokers, shipping agents and other ancillary services; and | (b) to establish, maintain and operate shipping services and all other services ancillary thereto;

(c) to appoint and dismiss such officers and servants as may be necessary for carrying out the work of the Corporation and to determine the terms and conditions of their employment;

(d) to act as agents or sub-agents for any other company, person or persons in Sri Lanka or abroad ;

(e) to carry on the business of ship brokers for the purpose of sale or purchase or for the procurement of shipping services; | |

*6th June. 1971 See Gazette No. 14.961 of 4th June, 1971.

- (f) to carry on business as contractors in respect of shipping and services ancillary thereto;
 - (g) to carry on all such financial, commercial, trading, technical and other operations for business in connexion with the objects of the Corporation as the Corporation may think fit;
 - (h) to appoint such agents, whether in Sri Lanka or abroad, as the Corporation may deem necessary and to determine the terms and conditions of their appointment;
 - (i) to appoint, employ or dismiss professional persons, whether in Sri Lanka or abroad, as the Corporation may deem necessary and to determine the terms and conditions of their appointment;
 - (j) to acquire, hold, take or give on lease or hire, mortgage, pledge and sell or otherwise dispose of, any movable or immovable property;
 - (k) to do anything for the purpose of advancing the skill of persons employed by the Corporation or the efficiency of the equipment of the Corporation or the manner in which that equipment is operated, including the provision by the Corporation, and the assistance of the provision by others, of facilities for training persons required to carry out the work of the Corporation;
 - (l) to establish a provident fund and provide welfare and recreational facilities for persons employed by the Corporation;
 - (m) to construct, manufacture, purchase, maintain and repair anything required for the purpose of carrying out the objects of the Corporation;
 - (n) to delegate to any officer of the Corporation any such function of the Corporation as the Corporation may consider necessary so to delegate for the efficient transaction of business;
 - (o) to enter into and perform all such contracts as may be necessary for the performance of the duties and the exercise of the powers of the Corporation;
 - (p) to make rules in relation to its officers and servants, including their appointment, promotion, remuneration, disciplinary control, conduct and the grant of leave to them;
 - (q) to make rules in respect of the administration of the affairs of the Corporation;
 - (r) to do anything necessary for, or conducive or incidental to, the carrying out of the objects of the Corporation ;
 - (s) to acquire, hold or dispose of shares in any organization in Sri Lanka or abroad, with the approval of the Government;
 - (t) to promote, with the approval of the Government, any subsidiary organization in Sri Lanka or abroad which may seem or appear directly or indirectly calculated to benefit the Corporation;
 - (u) to appoint such Advisory Boards or Committees, and such Local Boards or Committees, with such executive or other functions and upon such terms as to remuneration and otherwise, as the Corporation may deem expedient.
- (2) The Minister may by Order authorize the Corporation, subject to such conditions as may be specified in the Order, to carry on any undertaking or business or to do any act or thing not mentioned in the preceding provisions of this section, if he is satisfied that it is expedient so to do for purposes connected with the efficient discharge and performance of the powers and duties conferred or imposed on the Corporation by such preceding provisions.
- (3) Every Order made under subsection (2) shall be published in the Gazette, and shall come into force on the date of such publication.

(4) Every Order made under subsection (2) shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any Order which is not so approved shall be deemed to be revoked as from the date of disapproval, but without prejudice to anything previously done thereunder. Every Order which is not so revoked shall be as valid and effectual as though it were herein enacted.

(5) Nothing in the preceding provisions of this section shall be construed as authorizing the disregard by the Corporation of any law for the time being in force.

6. (1) The Minister may give the Board of Directors general or special directions in writing as to the performance of the duties and the exercise of the powers of the Corporation, and such Board shall give effect to such directions.

(2) The Minister may, from time to time, direct in writing the Board of Directors to furnish to him, in such form as he may require, returns, accounts and other information with respect to the property and business of the Corporation, and such Board shall carry out every such direction.

(3) The Minister may, from time to time, order all or any of the activities of the Corporation to be investigated and reported upon by such person or persons as he may specify, and, upon such order being made, the Board of Directors shall afford all such facilities, and furnish all such information, to the said person or persons as may be necessary to carry out the order.

7. (1) The Corporation shall have a Board of Directors consisting of five members appointed by the Minister, one of whom shall be an officer of the Ministry charged with the subject of Finance.

(2) A person shall not be qualified for appointment or for continuing as a Director—

- (a) if he is a Member of Parliament; or
- (b) if he is, under any law in force in Sri Lanka, found or declared to be of unsound mind ; or

(c) if he is a person who, having been declared an insolvent or a bankrupt under any law in force in Sri Lanka or in any other country, is an undischarged insolvent or bankrupt; or

(d) if he is convicted of an offence involving moral turpitude and punishable with imprisonment for a term of not less than six months; or

(e) if he has any such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a Director.

(3) Where a Director is, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, then, the Minister may appoint any person to act in his place.

(4) The Minister may, without assigning a reason, remove any Director from office. Such removal shall not be called in question in any court whether by way of writ otherwise.

(5) A Director may resign the office of Director by letter addressed to the Minister.

(6) Subject to the provisions of subsection (4) and subsection (5), the term of office of a Director shall be three years :

Provided that—

(a) a Director appointed in place of a Director who dies or resigns or otherwise vacates office shall, unless he earlier resigns or otherwise vacates office, hold office for the unexpired part of the term of office of the Director whom he succeeds ; and

(b) a Director appointed in place of a Director who is temporarily unable to perform the duties of his office shall, unless he earlier resigns or otherwise vacates office, hold office during the absence of the Director in whose place he was appointed.

Powers of the Minister in relation to the Corporation.

Board of Directors.

Remuneration of Directors.

8. All or any of the Directors may be paid such remuneration as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(3) The Minister may, without assigning a reason, terminate the appointment of the Chairman of the Board of Directors.

Director to disclose interest in contract proposed to be made by the Corporation.

9. A Director who is directly or indirectly interested in a contract proposed to be made by the Corporation shall disclose the nature of his interest at a meeting of the Board of Directors. The disclosure shall be recorded in the minutes of such Board, and such Director shall not take part in any deliberation or decision of such Board with respect to such contract.

(4) The Chairman of the Board of Directors may resign the office of Chairman by letter addressed to the Minister.

(5) Subject to the provisions of subsection (3) and subsection (4), the term of office of the Chairman shall be the period of his membership of the Board of Directors:

Quorum for meeting of Board of Directors.

10. The quorum for any meeting of the Board of Directors shall be three.

Provided that a Director appointed to act as the Chairman of the Board of Directors during the absence of the Chairman of the Board of Directors shall, unless he vacates the office of Chairman earlier, hold such office during such absence.

Regulation of procedure.

11. Subject to the other provisions of this Act, the Board of Directors may regulate the procedure in regard to the meetings of such Board and the transaction of business at such meetings.

16. The Board of Directors may, in consultation with the Minister, appoint to the staff of the Corporation a General Manager. Appointment of General Manager.

Board of Directors may act despite vacancy.

12. The Board of Directors may act notwithstanding a vacancy among the members thereof.

17. (1) The seal of the Corporation shall be in the custody of the Board of Directors, or any officer of the Corporation authorized in that behalf by such Board. Seal of the Corporation-

Board of Directors to administer the affairs of the Corporation.

13. The Board of Directors shall administer the affairs, may exercise the powers, and shall perform the duties, of the Corporation.

(2) The seal of the Corporation may be altered in such manner as may be determined by the Board of Directors.

Delegation of powers and duties of Board of Directors.

14. (1) The Board of Directors may delegate to any Director or employee of the Corporation any of the powers and duties of such Board.

(3) The application of the seal of the Corporation shall be authenticated by the signature of the Chairman of the Board of Directors or some other member of the Board authorized by the Board to authenticate the application of such seal, and of the officer of the Corporation, if any, who is designated General Manager or Secretary or some other officer of the Corporation authorized by the Board to act in his stead in that behalf.

Chairman of Board of Directors.

15. (1) The Minister may appoint one of the Directors as the Chairman of the Board of Directors.

18. (1) The initial capital of the Corporation shall be one hundred million rupees and such capital shall consist of grants or loans given or made available by the Government on such terms and conditions as may be determined by the Minister in charge of the subject of Finance. Capital of the Corporation.

(2) If the Chairman of the Board of Directors is, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint one of the Directors to act in his place.

(2) The capital of the Corporation may be increased from time to time by such amount as may be authorized by any Appropriation Act or by resolution of Parliament, and that amount shall be made available to the Corporation by way of grant or loan on such terms and conditions as may be determined by the Minister in charge of the subject of Finance.

Borrowing powers of the Board of Directors.

19. The Board of Directors may, with the concurrence of both the Minister and the Minister in charge of the subject of Finance, or in accordance with the terms of any general authority given with like concurrence, borrow, by way of overdraft or otherwise, or negotiate and obtain on credit terms in Sri Lanka or abroad, such sums as the Board may require for meeting the obligations of the Corporation or carrying out its objects:

Provided that the aggregate of the amounts outstanding in respect of any loans raised by the Board of Directors under this subsection shall not at any time exceed such sum as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Investment of moneys.

20. All moneys of the Corporation which are not immediately required for the purposes of the business of the Corporation may be invested by the Board of Directors in securities of the Government of Sri Lanka, or in any other form of investment in Sri Lanka or abroad, with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance.

Application of the revenue of the Corporation.

21. The revenue of the Corporation in any year consisting of moneys received and accrued in the exercise and performance of the powers and duties of the Corporation including income from sale of capital assets shall be applied in defraying the following charges:—

- (a) the working and establishment expenses of the Corporation in connexion with the exercise and performance of the powers and duties of the Corporation, properly chargeable to revenue account;

- (b) allocations to cover the depreciation of the movable and immovable property of the Corporation ;
- (c) the interest on any loans raised by the Corporation under the provisions of this Act;
- (d) any loss incurred on the sale of capital assets;
- (e) income tax.

22. The net surplus for any year, if any, out of the revenue of the Corporation after defraying the charges mentioned in section 21, may be appropriated by the Board of Directors for any or all of the following purposes with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance :—

Appropriation of net surplus revenue of the Corporation.

- (a) writing off the preliminary expenses incurred in the formation of the Corporation;
- (b) writing off any accumulated losses brought forward ;
- (c) writing off any unproductive expenditure not properly chargeable to revenue;
- (d) transfers to the insurance reserve which the Board of Directors is hereby authorized to establish and maintain;
- (e) transfers to the assets replacement reserve which the Board of Directors is hereby authorized to establish and maintain;
- (f) transfers to the loan redemption reserve which the Board of Directors is hereby authorized to establish and maintain;
- (g) transfers to any development reserve which the Board of Directors is hereby authorized to establish and maintain.

23. No debits against or transfers out of the reserves mentioned in section 22 shall be made by the Board of Directors except with

Operation of reserves of the Corporation.

the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance.

Payment to the Consolidated Fund.

24 All sums remaining out of the net surplus revenue of the Corporation in any year after the appropriations mentioned in section 22 have been satisfied shall be paid to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund.

Reduction of the capital of the Corporation.

25. The capital of the Corporation contributed by the Government by way of grants shall not be reduced, except in such manner as may be determined by resolution of Parliament.

Accounts and financial year.

26. The Board of Directors shall cause proper accounts of the income and expenditure of the Corporation and of all its other transactions to be kept and shall prepare an annual statement of accounts and statistics relating to the business of the Corporation in such form and containing such particulars as the Minister with the concurrence of the Minister in charge of the subject of Finance may from time to time specify.

The financial year of the Corporation shall be the calendar year.

Audit of accounts.

27. (1) The accounts of the Corporation for each financial year shall be submitted to the Auditor-General for audit within four months of the close of the financial year. For the purposes of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor or auditors who shall act under his direction and control.

(2) For the purpose of meeting the expenses incurred by him in the audit of the accounts of the Corporation, the Auditor-General shall be paid by the Corporation such remuneration as the Minister may with the concurrence of the Minister in charge of the subject of Finance determine. Any remuneration received from the Corporation by the Auditor-General shall, after deducting any sums paid by him to any qualified auditor or auditors employed by him for the purposes of such audit, be credited to the Consolidated Fund.

(3) The Auditor-General and any person assisting the Auditor-General in the audit of the accounts of the Corporation shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Corporation as the Auditor-General may consider necessary for the purposes of the audit, and shall be furnished by the Board of Directors and officers of the Corporation with such information within their knowledge as may be required for such purposes.

(4) The Auditor-General shall examine the accounts of the Corporation and furnish a report—

- (a) stating whether he has or has not obtained all the information and explanations required by him ;
- (b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Corporation; and
- (c) drawing attention to any item in the accounts which in his opinion may be of interest to Parliament in any examination of the activities and accounts of the Corporation.

(5) The Auditor-General shall transmit his report to the Board of Directors within four months of the receipt of the accounts of the Corporation by him.

(6) For the purposes of this section, the expression " qualified auditor " means

- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute ; or
- (b) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a

certificate to practise as an Accountant issued by the Council of such Institute.

(7) The Board of Directors shall, on receipt of the Auditor-General's report in respect of any year, cause a copy of each of the following documents relating to that year to be transmitted to the Minister;—

- (a) the Auditor-General's report;
- (b) the balance sheet;
- (c) the operating and profit and loss accounts;
- (d) the statement of accounts and statistics prepared under section 26 ; and
- (e) the report of the Chairman of such Board giving an account of the work of the Corporation.

(8) The Minister shall lay copies of the documents transmitted to him under subsection (7) before Parliament before the end of the year next following the year to which such report and accounts relate.

(9) The Board of Directors shall cause copies of the report and statement referred to in subsection (7) to be printed at the expense of the Corporation and to be made available for purchase by the public at such price as shall be determined by such Board.

Contracts.

28. Contracts on behalf of the Corporation may be made as follows :—

- (a) a contract which if made between private persons would be by law required to be in writing, may be made on behalf of the Corporation in writing under the seal of the Corporation;
- (b) a contract which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Corporation in writing, signed by any person or persons duly authorized thereto by the Corporation; and

(c) a contract which if made between private persons would in law be valid although made by parol only and not reduced into writing, may be made by parol on behalf of the Corporation by any person or persons duly authorized thereto by the Corporation.

29. A bill of exchange or promissory note shall be deemed to have been made, executed or endorsed on behalf of the Corporation if made, executed or endorsed in the name of, or on behalf of, or on account of, the Corporation by any person or persons duly authorized thereto.

Bills of exchange and promissory notes.

30. (1) The Corporation may, by writing under its seal, empower any person either generally or in respect of any specific matter, as its attorney, to execute deeds on its behalf in any place not situate in the Island.

Execution of deeds abroad.

(2) A deed signed by such an attorney on behalf of the Corporation and under his signature or seal shall bind the Corporation and have the same effect as if it were under the seal of the Corporation.

31. A receipt signed by two Directors or by any officer authorized in that behalf by the Board of Directors to give receipts shall be an effectual discharge for moneys paid to the Corporation.

Receipts when valid.

32. All officers and servants of the Corporation shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and servants of the Corporation deemed to be public servants within the meaning and for the purposes of the Penal Code.

33. The Corporation shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

The Corporation deemed to be a scheduled institution within the meaning of the Bribery Act.

Appointment of public officers, members of the Local Government Service and officers and servants of local authorities to the staff of the Corporation.

34. (1) At the request of the Board of Directors any officer in the public service may, with the consent of that officer and of the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the Corporation for such period as may be determined by the Board with like consent or be permanently appointed to such staff.

(2) The provisions of subsection (2) of section 9 of the Motor Transport Act, No. 48 of 1957*, shall, *mutatis mutandis*, apply in relation to any officer in the public service who is temporarily appointed to the staff of the Corporation, and the provisions of subsection (3) of the aforesaid section 9 shall, *mutatis mutandis*, apply in relation to any officer in the public service who is permanently appointed to such staff.

(3) Where the Corporation employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specific period, any period of service to the Corporation by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(4) At the request of the Board of Directors, any member of the Local Government Service or any officer or servant of any local authority may, with the consent of such member, officer or servant and the Local Government Service Advisory Board or that authority, as the case may be, be temporarily appointed to the staff of the Corporation for such period as may be determined by the Board with like consent, or be permanently appointed to such staff, on such terms and conditions including those relating to pension or provident fund rights as may be agreed upon by the Board and the Local Government Service Advisory Board or that authority.

(5) Where any member of the Local Government Service or any officer or servant of any local authority is temporarily appointed to the staff of the Corporation, he shall be subject to the same disciplinary control as any other member of such staff.

* Repealed by Law No. 19 of 1978.
! Repealed and replaced by the Companies Act, No. 17 of 1982.

35. (1) Where any land, other than State land, is required to be acquired for any of the purposes of the Corporation and the Minister, by Order published in the Gazette, approves of the proposed acquisition, the land proposed to be acquired shall, for the purpose of the application of the Land Acquisition Act, be deemed to be required for a public purpose and may be acquired under that Act and transferred to the Corporation.

(2) Any sum payable for the acquisition of land under the Land Acquisition Act for the Corporation shall be paid by the Corporation.

36. (1) The Minister may make regulations to give effect to the principles and provisions of this Act.

(2) No regulation made by the Minister shall have effect until it is approved by Parliament and notification of such approval is published in the Gazette.

37. Nothing in the Companies Ordinance! or any other written law relating to companies shall apply to the Corporation.

38. In this Act, unless the context otherwise requires,—

" Board of Directors " means the Board of Directors of the Corporation constituted under this Act;

" Ceylon Shipping Corporation Limited " means the Ceylon Shipping Corporation Limited incorporated under the Companies Ordinance on February 23,1969;

" Director" means a member of the Board of Directors;

" goods" means any form or kind of cargo carried on a ship or vessel, and includes petroleum products, liquids, gases or other similar articles or substances; and

Acquisition of land under the Land Acquisition Act for the Corporation.

Regulations.

Company law not to apply to the Corporation.

Interpretation.

" local authority " includes any Municipal Council, Urban Council, Town Council or Village Council.

SPECIAL PROVISIONS APPLICABLE TO, AND IN RELATION TO, THE CEYLON SHIPPING CORPORATION LIMITED

Succeeding provisions of this Act to prevail over other written law, &c.

39. The succeeding provisions of this Act shall apply to, and in relation to, the Ceylon Shipping Corporation Limited, notwithstanding anything to the contrary in the Companies Ordinance,* or any other written law or other instrument relating to its constitution or functions.

Vesting of the assets and liabilities of the Ceylon Shipping Corporation Limited in the Corporation.

40. (1) On the date of the establishment of the Corporation!—

(a) all the assets and liabilities of the Ceylon Shipping Corporation Limited at their book values as they appear in the audited accounts of the Ceylon Shipping Corporation Limited at that date shall vest in the Corporation and shall be the assets and liabilities of the Corporation; and

(b) the Ceylon Shipping Corporation Limited shall cease to carry on business, and shall be deemed to be dissolved.

(2) For the purposes of this section,

(a) the term " assets " includes property or rights of any kind ; and

(b) the term " liabilities " includes contracts, commitments and other obligations.

Effect of the establishment of the Corporation.

41. On the date of the establishment of the Corporation,!—

(a) every officer or servant holding an appointment under the Ceylon Shipping Corporation Limited on the day immediately preceding that date shall, on that date, be transferred to the employ of the Corporation; and

(b) any officer or servant so transferred shall be employed by the Corporation on terms and conditions which are not less favourable than those which he had enjoyed in the service of the Ceylon Shipping Corporation Limited immediately before the date of his transfer.

42. (1) Compensation in respect of each share of the Ceylon Shipping Corporation Limited, other than any such share held by or on behalf of the Government, shall be paid by the Corporation to the person who was the holder of that share on the day immediately prior to the date of the establishment of the Corporation on the basis of the purchase value of such share, or the par value thereof, whichever is less.

(2) Compensation in respect of the shares of the Ceylon Shipping Corporation Limited, other than any such share held by or on behalf of the Government, shall be payable in cash, or in 6/2 per centum negotiable Government securities, or both in such cash and such securities in such proportion as may be determined by the Minister in charge of the subject of Finance. Such securities shall be issued under the Registered Stock and Securities Ordinance and shall be redeemable by the Government in not less than thirteen years but not more than fifteen years.

(3) Any dispute between the Corporation and any other person as to the amount of compensation payable to that person under this section shall be referred by the Corporation to the Minister in charge of the subject of Finance whose decision thereon shall be final and conclusive.

43. (1) The Ceylon Shipping Corporation Limited shall be deemed never to have been required to summon and hold an annual general meeting of the Ceylon Shipping Corporation Limited for or during the year 1970, and accordingly—

(a) no action or other proceedings, whether by way of writ or otherwise, shall lie before any Court against the Ceylon Shipping

Compensation to be payable in respect of certain shares of the Ceylon Shipping Corporation Limited vested in the Corporation.

Special provision relating to the annual general meeting for 1970 of the Ceylon Shipping Corporation Limited.

* Repealed and replaced by the Companies Act, No. 17 of 1982.

! 6th June, 1971-See Gazette No. 14.961 of 4th June, 1971.

Corporation Limited or any director or officer of the Ceylon Shipping Corporation Limited on account of the omission to summon and hold such meeting; and

- (b) any such action or proceedings as is or are pending shall be deemed to have abated.

(2) The provisions of subsection (1) shall be deemed for all purposes to have come into force on January 1, 1970.

44. (1) Where the Ceylon Shipping Corporation Limited has been dissolved by virtue of the operation of the provisions of this Act, the Minister may, by Order,—

- (a) make all such provisions as he may deem necessary for the purposes of giving full force and effect to such dissolution in respect of matters for which no provision or no effective or adequate provision is made by this Act and of removing any

difficulties which may have arisen in consequence of such dissolution; and

- (b) make all such amendments in any written law in its application to such Corporation as may be necessary for the purposes referred to in paragraph (a) of this subsection.

(2) Every Order made under subsection (1) shall be published in the Gazette, and shall come into force on the date of such publication, or on such earlier date as may be specified therein, not being a date earlier than the date of the dissolution of the Ceylon Shipping Corporation Limited.

(3) Every Order made under subsection (1) shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any Order which is not so approved shall be deemed to be revoked as on the date of disapproval, but without prejudice to anything previously done thereunder. Every Order which is not so revoked shall be as valid and effectual as though it were herein enacted.

Power of Minister to make Orders relating to the dissolution of the Ceylon Shipping Corporation Limited.

CHAPTER 498

CEYLON SCOUT COUNCIL

Act No. 13 of 1957. AN ACT TO INCORPORATE THE CEYLON SCOUT COUNCIL.

[27th March, 1957.]

Short title. **1.** This Act may be cited as the Ceylon Scout Council (Incorporation) Act.

(h) the honorary secretary elected at the annual general meeting of the council;

PART I

THE COUNCIL, ITS OBJECTS, POWERS AND DUTIES

(i) the honorary treasurer elected at the annual general meeting of the council; and

Constitution of the council.

2. (1) The council shall consist of—

(j) such other members, not less than thirty in number, as may be elected at the annual general meeting of the council out of persons who have interest in, and have given assistance to, the Boy Scout movement.

(a) the patron who shall be the President of Sri Lanka, or, if the President does not consent to be the patron, any other person who may agree to accept the office of patron at the request of the committee made with the approval of the council;

(2) The persons specified in the First Schedule* to this Act shall, unless they cease to hold office earlier, be the members of the council till the first annual general meeting of the council after the commencement of this Act.

(b) such number of vice-patrons as may be elected at the annual general meeting of the council;

(3) Any vacancy occurring in the council shall be filled by the council.

(c) a president elected at the annual general meeting of the council;

3. The members of the council shall be a body corporate with perpetual succession, a common seal and the name "The Ceylon Scout Council". The council may sue and be sued in its corporate name.

(d) such number of vice-presidents as may be elected at the annual general meeting of the council;

(e) a representative of each of the branch associations;

4. The council shall carry out the primary objects of the association, namely, the development of good citizenship among boys of all classes by forming their character, training them in habits of observation, obedience and self-reliance, inculcating in them discipline, loyalty and thoughtfulness for others, teaching them services useful to the public and handicrafts useful to themselves and promoting their physical, mental and spiritual development, so that irrespective of race, community, caste or creed they may become good citizens of Sri Lanka.

(f) the Chief Commissioner, Honorary Chief Commissioners and Deputy Chief Commissioner all of whom shall be appointed by the Chief Scout;

(g) the Camp Chief, Assistant Chief Commissioners, Headquarters Commissioners and District Commissioners who shall be appointed in accordance with the rules made under section 8 (1) (d);

* Schedule omitted.—Private enactment.

Powers of the council.

5. The council shall have the following powers:—

- (a) to acquire by purchase, exchange, gift, testamentary disposition or otherwise, and to mortgage, lease, exchange, sell or otherwise dispose of, any property whatsoever;
- (b) to utilize the funds of the council for the purpose of meeting all expenditure incurred by the council and the committee in carrying out the objects of the association, in remunerating the employees of the council, and in the exercise and performance of the powers and duties of the council and the committee;
- (c) to borrow and raise money, with or without security, for any of the purposes of the council;
- (d) to invest the moneys of the council in any securities in which trustees are required by the Trusts Ordinance to invest trust money;
- (e) to create or undertake any trust affecting property for the benefit of the association or any branch association;
- (d) to form branches of the association in accordance with the rules of the council; and to have general control over the activities of such branches;
- (g) to publish, sell or distribute papers, books, or pamphlets, and to supply information, for the purpose of stimulating interest in and promoting the objects of the association, and to take other suitable measures that may appear to be necessary for providing and maintaining an efficient organization for the purpose of the association;
- (h) to form groups of Boy Scouts and to enrol fit and proper persons as members or officers thereof;
- (i) to supply with or without charge, and to deal in, equipment of all kinds

for the use of Boy Scouts, and to provide prizes, badges, certificates and other rewards of merit to be competed for by, and awarded to, them;

- (j) to grant such rewards and honorary titles as may be considered necessary by the council for good services to the Boy Scout movement;
- (k) to assist past or present Boy Scouts in obtaining any training in any trade or undertaking as apprentices or otherwise and in establishing themselves in life, and to establish, contribute to, and administer, special funds for that purpose;
- (l) to make and carry out any arrangement for joint working or co-operation with any other society or body, whether incorporated or not, carrying on work of a similar nature;
- (m) to enter into any arrangements with any educational authorities or departments of the Government for promoting the interests of the association;
- (n) to appoint all such officers and servants of the council as it may deem necessary and to pay to such officers and servants such salaries, pensions, gratuities and allowances as may, from time to time, be sanctioned by the council;
- (o) to delegate any of the powers of the council to the committee of the council;
- (p) to do such other acts as may be incidental or conducive to the attainment of any of the objects of the council or to the exercise of any of its powers.

PART II

THE COMMITTEE OF THE COUNCIL

6. (1) There shall be a committee of the council consisting of the Chief Commissioner, Deputy Chief

Constitution of the committee.

Commissioner, Camp Chief, an Assistant Chief Commissioner elected to such committee at the annual general meeting of the council, a Headquarters Commissioner elected to such committee at the annual general meeting of the council, the honorary secretary and the honorary treasurer of the council, and not less than six and not more than fourteen other persons elected to such committee out of the members of such council at the annual general meeting of the council.

(2) The persons specified in the Second Schedule* to this Act shall, unless they cease to hold office earlier, be the members of the committee till the first annual general meeting of the council after the commencement of this Act.

(3) The chairman of the committee shall be elected at the annual general meeting of the council.

Powers and duties of the committee.

7. (1) The committee may exercise any such power of the council as may be delegated to it by the council.

(2) It shall be the duty of the committee to administer the affairs of the council subject to the directions of the council.

(3) The committee shall cause to be laid before the annual general meeting of the council a report on the work done, and of the progress made, in the past year, and a statement of the accounts of the council in respect of the past year showing receipts and expenditure, together with a balance sheet as audited by the auditors.

(4) The committee shall provide for the safe custody of the common seal of the council. Such seal shall not be used except with the approval of the committee previously given and otherwise than in the presence of not less than two members of the committee who shall sign the instrument to which the seal is affixed in token of their presence.

PART III

GENERAL

Rules.

8. (1) The council may make rules, not inconsistent with any provision of this Act, in regard to—

- (a) all matters relating to the association;

* Schedule omitted.—Private enactment.

(b) all matters relating to the council and the committee;

(c) all matters relating to branch associations;

(d) the appointment of Scout officials, and all matters relating to them;

(e) the finances and accounts of the association, the council, the committee and the branch associations;

(f) the appointment of auditors;

(g) all matters relating to the employees of the council; and

(h) the carrying out of the objects, and the management of the affairs, of the association, the council, the committee and the branch associations.

(2) No rule made by the council shall have effect unless it is approved by not less than two-thirds of the members of the council present at a meeting of the council at which such rule is considered and unless it is confirmed by the Chief Scout.

9. All acts done at any meeting of the council or the committee shall, notwithstanding any vacancy in the council or the committee or any defect in the election of any member thereof, be as valid as if there has been no such vacancy or defect.

Acts of the council and the committee.

10. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

11. In this Act, unless the context otherwise requires—

Interpretation.

"association" means the Ceylon Boy Scouts Association;

"Boy Scout" includes Senior Scout, Rover Scout and Wolf Cub;

"committee" means the committee of the council; and

"council" means the Ceylon Scout Council.

CHAPTER 573
CRUELTY TO ANIMALS

Ordinances AN ORDINANCE TO MAKE BETTER PROVISION FOR THE PREVENTION OF CRUELTY TO
 Nos. 13 of 1907. ANIMALS.
 19 of 1912,
 43 of 1917,
 9 of 1919,
 23 of 1921.
 16 of 1927.
 17 of 1930,
 12 of 1945,
Act
 No. 22 of 1955.

[10th July. 1907.]

Short title.	1. This Ordinance may be cited as the Prevention of Cruelty to Animals Ordinance.*	have caused unnecessary pain or suffering to such animals.	
Offence of cruelty.	2. (1) Any person who shall— (a) cruelly beat, ill-treat, over-drive, over-ride, abuse, or torture, or cause or procure to be cruelly beaten, ill-treated, over-driven, over-ridden, abused, or tortured, any animal; (b) by any act or omission cause unnecessary pain or suffering to any animal; or (c) convey or carry, or cause to be conveyed or carried, in any ship, boat, canoe, or in any vehicle, basket, box, or cage, or otherwise, any animal in such manner or position as to subject such animal to unnecessary pain or suffering, .	3. If any animal is found in any place suffering pain by reason of starvation, mutilation, or other ill-treatment, the owner of such animal, and any superintendent or manager of such owner, shall severally be guilty of an offence, and shall be punished with a fine which may extend to one hundred rupees, and in the case of a second or subsequent offence, with a fine which may extend to two hundred rupees, or with imprisonment of either description for a term which may extend to three months, or with both : Provided, however, that it shall be a good defence to any such charge if the owner of such animal, or if any such superintendent or manager, proves to the satisfaction of the court that the condition of the animal was not due to any act, omission, neglect, or default on his part.	If animal found in any place suffering pain by reason of starvation, &c.. owner guilty of an offence.
Penalty.	shall be guilty of an offence, and shall be punished with a fine which may extend to one hundred rupees, or with imprisonment of either description for a term which may extend to three months, or with both. (2) It shall be lawful for the Minister to make rules as to the manner of keeping and treatment of animals. (3) If any person contravenes any such rule, he shall be deemed for all purposes to	4. If any person kills any animal in an unnecessarily cruel manner he shall be punished with fine. which may extend to one hundred rupees, or with imprisonment of either description for a term which may extend to six months, or with both. 5. If any person uses in any work or labour any animal which by reason of any disease, infirmity, wound, sore, or other cause is unfit to be so used, or permits any such unfit animal in his possession or under	Penalty for killing animals with unnecessary cruelty. Penalty for using animals unfit for labour.

* Primary Court has exclusive jurisdiction in respect of all offences under this Ordinance under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

his control to be so used, he shall be punished with fine, which may extend to one hundred rupees, or with imprisonment of either description for a term which may extend to three months, or with both.

Power of Minister to appoint infirmaries for the treatment of animals.

6. (1) The Minister may appoint any institution established in Sri Lanka for the treatment of sick or injured animals to be an infirmary for the treatment and care of animals in respect of which offences under this Ordinance have been committed.

(2) Every such infirmary shall be open to inspection at all reasonable hours by any officer authorized in that behalf by the Minister.

(3) The Minister may, whenever he thinks fit to do so, rescind any order made under subsection (1).

(4) The court before which a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is alleged or proved to have been committed shall be sent for treatment and care to an infirmary, and be there detained until it is, in the opinion of the court, again fit for the work or labour on which it has been ordinarily employed.

(5) The cost of the treatment, feeding, and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the Government Agent of the administrative district may, from time to time, prescribe.

(6) If the owner refuses or neglects to pay such cost and to remove the animal within such time as the court may prescribe, the court may direct that the animal be sold, and the proceeds of the sale be applied to the payment of such costs.

(7) The surplus, if any, of the proceeds of sale shall, on application made by the owner within two months after the date of the sale, be paid to him; and the deficit, if any, shall be recoverable from the owner by order of the court in the same manner as a fine, and when recovered shall be paid to the authorities of the infirmary.

* Primary Court has exclusive jurisdiction in respect of all offences under this Ordinance under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

7. If any person without reasonable excuse permits any diseased or disabled animal of which he is the owner to die in any street, he shall be punished with fine, which may extend to one hundred rupees, or in default to imprisonment of either description which may extend to three months.

Penalty for permitting diseased animals to die in any street.

8. A prosecution for an offence against this Ordinance shall not be instituted after the expiration of three months from the date of the commission of the offence.

Limitation of time for prosecution.

9. When any Magistrate,* Superintendent, or Assistant Superintendent of Police, Judge of a Primary Court, or the divisional Assistant Government Agent of a division, has reason to believe that an offence under this Ordinance has been committed in respect of any animal, he may direct the immediate destruction of the animal, if in his opinion its sufferings are such as to render such a direction proper.

Power to Magistrate,* &c., to direct destruction of suffering animals.

10. The Municipal Veterinary Surgeon or any officer authorized by him in writing to inspect diseased or disabled animals may board any vessel in Colombo harbour and may enter into the customs premises or any place appointed for the landing of cattle or the cattle mart or the quarantine station for the purpose of inspecting any animals therein and may destroy or order the immediate destruction of any animal found therein if the animal appears to him to be injured or diseased and, in his opinion, its sufferings are such as to render its immediate destruction proper.

Municipal Veterinary Surgeon or any officer authorised by him may board any vessel in Colombo harbour and enter customs premises for inspecting any animals therein.

11. The Minister with the concurrence of the Minister in charge of the subject of Finance may, by Order notified in the Gazette, notwithstanding any statutory enactment inconsistent therewith, direct that the whole or any part of any of the fines recovered in respect of offences under this Ordinance, which shall have been prosecuted by any officer of any society established in Sri Lanka for the prevention of cruelty to animals, shall be paid to such society:

Power to direct application of fines.

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Provided that where in any area any such fines are by law or practice already appropriated to any public authority established in the area, such Order shall only take effect in the area subject to the consent of the public authority signified by resolution notified in the Gazette, and to the extent authorized by such resolution.

pending the trial of the offence, and in the event of a conviction the court may direct the reasonable cost of the maintenance of the animal pending the trial, to be recovered from the offender in the same manner as a fine.

Offence under the Ordinance to be cognizable offences.

***12.** All offences against this Ordinance shall be deemed to be cognizable offences within the meaning of the Code of Criminal Procedure Act, and subject to all the provisions of the said Act relating to arrest without warrant.

Power to detain animals.

13. A peace officer may detain any animal in regard to which he shall have reasonable cause to believe that an offence under thi^ Ordinance has been committed

14. In this Ordinance, unless the context Interpretation. otherwise requires—

" animal" means any domestic or captured animal and includes any bird, fish, or reptile in captivity; and

"street" includes any way, road, lane, square, court, alley, passage, or open space, whether a thoroughfare or not, to which the public have access.

* Primary Court has exclusive jurisdiction in respect of all offences under this Ordinance under section 33 of the Judicature Act read with Gazette Extraordinary No, 4? 4 ot 1979-07-02.

CHAPTER 224

CEYLON TOURIST BOARD

Alts AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A PUBLIC AUTHORITY KNOWN AS THE
 Nos. 10 of 1966, CEYLON TOURIST BOARD FOR THE ENCOURAGEMENT, PROMOTION AND
 14 of 1968 DEVELOPMENT OF TOURIST TRAVEL TO OR IN OR FROM SRI LANKA, AND OF
 ADFQL'ATF. EFFICIENT AND ATTRACTIVE TOURIST SERVICES, AND FOR MATTERS
 CONNEDIED IHEREWITH OR INCIDENTAL THERETO.

[1st May. 1966.]

Short title. **1.** This Act may be cited as the Ceylon Tourist Board Act. **6.** (1) The Board shall consist of seven members appointed by the Minister— Constitution of the Board

PART I

CEYLON TOURIST BOARD

Ceylon Tourist the Board. **2.** There shall be established a public authority which shall be called the Ceylon Tourist Board, and which shall consist of the persons who are for the time being members of that Board under section 6.

The Board to be a body corporate. **3.** The Board shall, by the name assigned to it by section 2, be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in that name.

The objects of the Board. **4.** The objects of the Board shall be—
 (a) the encouragement, promotion and development of tourist travel;
 (b) the encouragement, promotion and development of adequate, efficient and attractive tourist services; and
 (c) the doing of all such acts or things as may be necessary for, or conducive to, the attainment of the objects specified in paragraphs (a) and (b) of this section.

The manner in which objects of the board are to be attained. **5.** For the purpose of the attainment of its objects, the Board may exercise, discharge and perform the powers, functions and duties conferred or imposed on the Board by or under this Act or any other written law.

- (a) one of whom shall be a public officer nominated, by name or by office, by the Minister in charge of the subject of Finance ; and
- (b) another of whom shall be a public officer nominated, by name or by office, by the Minister to whom the subject or function of Local Government is assigned by the President; and
- (c) the other five of whom shall be persons so appointed by the Minister.

(2) The Minister shall appoint one of the members of the Board, not being a member referred to in paragraph (a) or paragraph (b) of subsection (1), to be the Chairman of the Board.

(3) A person shall be disqualified for being appointed, or for continuing, as a member of the Board—

- (a) if he is or becomes a Member of Parliament; or
- (b) if he is or becomes the owner, a partner, a director, a major shareholder or an employee of or in any business which operates or provides tourist services of any class or description.

(4) Any person who is appointed by the Minister, or whom the Minister proposes to appoint, as a member of the Board shall,

whenever requested so to do, furnish to the Minister such information as the Minister considers necessary for ensuring compliance with the provisions of subsection (3) (b).

(5) A member of the Board who is in any way, directly or indirectly, interested in any contract made or proposed to be made by the Board shall disclose the nature of his interest at a meeting of the Board, and such disclosure shall be recorded in the minutes of the Board, and the member shall not take part in any deliberation or decision of the Board with regard to that contract.

(6) The Minister may, if he thinks it expedient to do so, remove, by Order published in the Gazette, any member of the Board from office without reason stated.

(7) A member of the Board in respect of whom an Order under subsection (6) is made by the Minister shall vacate his office on the date of the publication of such Order in the Gazette.

(8) A member of the Board may at any time resign his office by letter addressed to the Minister.

(9) If the Chairman or any other member of the Board is temporarily unable to discharge the duties of his office on account of ill health or absence from Sri Lanka or for any other cause, the Minister may, having due regard to the provisions of subsection (I), appoint some other person to act in his place as the Chairman or as a member.

(10) Every member of the Board shall, unless he earlier vacates office by death, resignation or removal, hold office for a period of five years. Any member of the Board who vacates office shall be eligible for reappointment.

(11) No act or proceeding of the Board shall be deemed invalid by reason only of the existence of any vacancy amongst its members or any defect in the appointment of a member thereof.

(2) The seal of the Board may be altered in such manner as may be determined by the Board.

(3) The application of the seal of the Board shall be authenticated by the signature of the Chairman of the Board or some other member of the Board authorized by the Board to authenticate the application of such seal, and of the officer of the Board who is designated the Secretary of the Board or some other officer of the Board authorized by name by the Board to act in his stead in that behalf.

8. The members of the Board shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by rules made under this Act.

Remuneration of members of the Board.

9. (1) The Board may delegate to the Chairman any of its powers, functions or duties under this Act or any other written law.

The Chairman of the Board.

(2) In the exercise, discharge or performance of the powers, functions or duties conferred or imposed on him, or delegated to him, under this Act or any other written law, the Chairman of the Board shall be subject to the general or special directions of the Board.

(3) The Chairman of the Board may, with the approval of the Board, delegate to any member of the staff of the Board a/iy of his powers, functions or duties under this Act or any other written law, whether conferred or imposed on him expressly or by way of delegation ;

Provided, however, that the Chairman of the Board shall not exercise the power of delegation conferred on him by the preceding provisions of this subsection in respect of any power, function or duty conferred or imposed on him by way of delegation by any other person or authority except with the prior approval of such other person or authority.

7. (1) The seat of the Board shall be in the custody of the Board.

10. The Chairman of the Board shall preside at all meetings of the Board. In the absence of the Chairman from any meeting

Presidency at meetings

Application of the seal of the Board.

of the Board, the members present shall elect one of their number to preside at the meeting.

Meetings of the Board,

11. Rules may be made under this Act in respect of the meetings of the Board, and the quorum for, and the procedure to be followed at, such meetings.

Head office of the Board.

12. The head office of the Board shall be Colombo in Sri Lanka.

Branches and agencies.

13. The Board may establish and maintain agencies or branches in Sri Lanka or elsewhere.

Minister's directions to the Board.

14. (1) In the exercise, discharge and performance of its powers, functions and duties, the Board shall be subject to, and act in accordance with, such general or special directions as the Minister may, from time to time, issue.

(2) The Minister shall, in issuing directions under subsection (1) with regard to any matter affecting the functions of any other Minister, act in consultation with that Minister.

Members of the Board deemed to be public servants.

15. All members of the Board shall be deemed to be public servants within the meaning and for the purposes of the Penal Code,

(c) may determine the terms and conditions of the service of such staff; and

(d) may establish and regulate provident funds or schemes for the benefit of such staff, and may make contributions to any such fund or scheme.

(3) Rules may be made under this Act in respect of all or any of the matters referred to in subsection (2).

17. (1) The Board may establish and maintain such number of departments as it may deem necessary for the proper and efficient conduct of its business.

(2) Each department of the Board shall be responsible for the administration and conduct of such part of the business of the Board as may be determined by the Board.

(3) The head of each department of the Board, and the other members of the staff of the Board attached to that department, shall exercise, discharge and perform such powers, functions and duties as may be determined by the Board.

(4) Rules may be made under this Act in respect of all or any of the matters referred to in the preceding provisions of this section.

PART II

STAFF AND DEPARTMENTS OF THE BOARD

Staff of the Board.

16. (1) The staff of the Board may consist of the following:—

- (a) a Director-General of Tourism; and
- (b) such other officers and servants as the Board may deem necessary for the proper and efficient conduct of the business of the Board.

(2) Subject to the other provisions of this Act, the Board—

- (a) may appoint, dismiss, and exercise disciplinary control over, the staff of the Board;
- (b) may fix the wages or salary or other remuneration of such staff;

18. (1) At the request of the Board, any officer in the public service may, with the consent of that officer and the Secretary to the Treasury, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent or be permanently appointed to such staff.

Appointment of certain classes of officers and servants to the staff of the Board.

(2) The provisions of subsection (2) of section 9 of the Motor Transport Act. No. 48 of 1957*, shall, *mutatis mutandis*, apply in relation to any officer in the public service who is temporarily appointed to the staff of the Board, and the provisions of subsection (3) of the aforesaid section 9 shall, *mutatis mutandis*, apply in relation to any officer in the public service who is permanently appointed to such staff.

* Repealed by Law No. 19 of 1978.

(3) Where the Board employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Board by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(4) At the request of the Board, any officer or servant of the Local Government Service or of any local authority may, with the consent of that officer or servant and of the Local Government Service Advisory Board or that authority, as the case may be, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent, or be permanently appointed to that staff, on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Board and that Advisory Board or that authority.

(5) Where any officer or servant of the Local Government Service or of any local authority is temporarily appointed to the staff of the Board, he shall be subject to the same disciplinary control as any other member of that staff.

19. All members of the staff of the Board shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Members of the staff of the Board deemed to be public servants.

PART III

FINANCE AND ACCOUNTS

The Fund of the Board.

20. (1) The Board shall have its own Fund.

(2) There shall be paid into the Fund of the Board-

- (a) all such sums of money as may be voted by Parliament for the use of the Board;
- (b) all sums of money received by the Board in the carrying on of its business or in the exercise, discharge and performance of its powers, functions and duties under this Act or any other written law; and

(c) all such sums of money as are required to be paid into such Fund by or under this Act.

(3) There shall be paid out of the Fund of the Board all sums of money required to defray any expenditure incurred by the Board in the carrying on of its business or in the exercise, discharge and performance of its powers, functions and duties under this Act or any other written law, and all such sums of money as are required to be paid out of such Fund by or under this Act.

21. (1) The Board shall cause its accounts to be kept in such form and manner as may be determined by the Board.

Accounts of the Board and financial year.

(2) The books and accounts of the Board shall be kept at the head office in Colombo.

(3) The financial year of the Board shall be as determined by the Board.

(4) Rules may be made under this Act in respect of all or any of the matters referred to in subsections (1) and (3).

22. (1) The accounts of the Board shall be audited annually by a qualified auditor (hereinafter referred to as "the auditor") appointed by the Minister on the advice of the Auditor-General. The auditor shall receive such remuneration from the Fund of the Board as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance.

Audit of accounts of the Board. [§106, 14 of 1968.]

(2) The Auditor-General shall have the power—

- (a) to direct the manner in which the Board's accounts shall be audited by the auditor and to give the auditor instructions in regard to any matter relating to the performance of his functions as the auditor;
- (b) to conduct a supplementary or additional audit of the Board's accounts by such person or persons as the Auditor-General may authorize in that behalf, and for the purpose of such audit, to require

information or additional information to be furnished to any person so authorized, on such matters, by such person or persons, and in such form, as the Auditor-General may, by special order, direct.

(3) For the purposes of this section, the expression " qualified auditor " means—

- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute; or
- (b) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute.

Auditor's report, [§106, 14 of 1968.]

23. (1) The auditor shall examine the accounts of the Board and furnish a report stating—

- (a) whether he has or has not obtained all the information and explanations required by him;
- (b) whether the balance sheet and accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Board.

(2) The auditor shall submit a copy of his audit report to the Auditor-General who shall have the right to comment upon, or supplement, the auditor's report in such manner as the Auditor-General may think fit.

(3) The Auditor-General shall transmit the audit report, together with his comments upon, or supplement to, such report to the Board.

23A. The Auditor-General and the auditor shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Board as the Auditor-General may consider necessary for the purpose of the audit and shall be furnished by the members or officers of the Board with such information within their knowledge as may be required for such purpose.

Powers of the Auditor-General and the auditor. [§106, 14 of 1968.]

24. The Board shall, on the receipt of the auditor's report each year, transmit such report together with the profit and loss account and the balance sheet to which the report relates, together with the Auditor-General's comments (if any) upon, and his supplements (if any) to, the auditor's report, and a statement by the Board of its activities during the financial year to which such report relates, to the Minister who shall cause copies thereof to be laid before Parliament before the end of the year next following the year to which such report and accounts relate.

Annual accounts with the auditor's report and a report of the annual activities of the Board to be transmitted to the Minister. [§106, 14 of 1968.]

25. Notwithstanding anything in any other written law, the Principal Collector of Customs may, with the sanction of the Secretary to the Treasury, waive the customs duty on articles imported by the Board for any of its purposes.

Exemptions from customs duty.

25A. Notwithstanding anything in any other written law, the Board shall be exempt from the payment of income tax upon the profits and income of the Board.

Exemption from income tax. [§106, 14 of 1968.]

PART IV

SPECIAL POWERS AND DUTIES OF THE BOARD

26. (1) The Board shall have power to do all such acts or things as may be necessary for, or conducive to, the attainment of its objects..

Power of the Board to do anything necessary for, or conducive to, the attainment of its objects.

(2) The succeeding provisions of this Act shall be without prejudice to the generality of the powers conferred by subsection (1).

Special powers of the Board relating to the attainment of its objects.

27. (I) The Board shall have all or any of the following powers :—

- (a) to establish, maintain and operate adequate, efficient and attractive tourist services, and to make such services available to other persons engaged in the promotion or development of tourist travel;
- (b) subject to the provisions of subsection (2), to assist financially or otherwise any local authority, State-sponsored corporation, Government Department, and by way of loan to any person or other body of persons (whether corporate or unincorporate) operating or maintaining any tourist service, for the purpose of doing any act or thing which is necessary for, or conducive to, the attainment of the objects of the Board ;
- (c) to engage, and to co-operate with tourist, travel and other agencies, in the display and distribution of exhibits and graphic materials designed to call attention to the attractions and places of interest in Sri Lanka, and in the collection, publication, and dissemination of information with respect to the places of interest, routes, transportation facilities, tourist services and such other matters as the Board deems necessary for the attainment of its objects ;
- (d) to train, or assist financially the training of, persons to do work which is wholly or mainly connected with tourist travel and tourist services;
- (e) to levy fees or other charges for services, facilities or equipment provided by the Board ; and
- (d) to adopt all such other measures as the Board considers advantageous for the purpose of the attainment of its objects.

(2) Financial assistance may be given by the Board, with the prior approval of the

Minister, by way of grant, loan or otherwise and subject to such terms or conditions as may be determined by the Board.

28. (1) It shall be the duty of the Board— Special duties of the Board.

- (a) either of its own motion or at the request of the Minister to advise him on all matters relating to the development of tourism;
- (6) to advise tourist, travel and other agencies with regard to the development of tourism;
- (c) to prepare and submit to the Minister for the guidance of, and implementation (whether with or without modification) by statute by, the Minister of all such general or special tourist schemes as may be necessary for, or conducive to, the attainment of the objects of the Board, and in particular, but without prejudice to the generality of the preceding provisions of this paragraph, in respect of all or any of the following matters:—
 - (i) the establishment, regulation, supervision, development and control of tourist resorts;
 - (ii) the regulation, supervision, development and control of tourist services; and
 - (iii) the regulation, supervision and control of the employment of persons in or about the business of tourist services; and
- (d) to formulate for the guidance of the Minister and tourist, travel and other agencies, a national plan or policy setting out in outline general proposals for the regulation, supervision, development and control of tourism.

(2) A tourist scheme prepared by the Board under this Act may contain all such provisions as may be necessary for, or

conducive to, the attainment of the objects of the Board in regard to the matters to which such scheme relates.

(3) Nothing in this section shall be construed as imposing on the Board, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court or tribunal to which the Board would not otherwise be subject.

Power of the Board to make Orders.

29. (1) The Board may, from time to time, make Orders in respect of all or any of the following matters;—

- (a) all matters necessary for, or incidental to, or connected with, the introduction, operation and enforcement of schemes for the regulation and control of the rates of fees or charges that may be levied and recovered in respect of tourist services generally, or tourist services of any class or description, or particular tourist services of any class or description;
- (b) all matters necessary for, or incidental to, or connected with, the introduction, operation and enforcement of schemes for the registration of tourist services generally, or tourist services of any class or description, so long as such services are established, maintained and operated in conformity or compliance with the minimum standards or provisions specified or contained in the Order for the purpose of ensuring that any such services are adequate, efficient and attractive, and in particular, but without prejudice to the generality of the preceding provisions of this paragraph, the circumstances in which such registration may be granted or refused, or suspended or cancelled ; or
- (c) all matters necessary for, or incidental to, or connected with, the introduction, operation and enforcement of schemes for the registration by the Board of persons who are fit and suitable for employment in tourist services generally, or tourist services of any

class or description, by reason of the fact that they have had such training, or possess such qualifications, or are not subject to such disabilities or disqualifications as may be specified in the Order with a view to ensuring that the persons so employed in any such services shall be fit and suitable for such employment, and in particular, but without prejudice to the generality of the preceding provisions of this paragraph, the circumstances in which such registration may be granted or refused, or suspended or cancelled.

(2) Any Order made under the preceding provisions of this section may provide for the prohibition of the establishment, maintenance or operation of any tourist service unless such service is registered by the Board and any person aggrieved by such Order shall have the right of appeal to a tribunal appointed by the Minister,

(3) No Order made under the preceding provisions of this section shall come into force until it is approved by the Minister, confirmed by Parliament and published in the Gazette.

(4) Every Order made under* the preceding provisions of this section shall, upon its coming into force as hereinbefore provided, be as valid and effectual as if it were herein enacted.

(5) In the event of any conflict or inconsistency between the provisions of any Order made under the preceding provisions of this section and the provisions of any other subsidiary legislation, the provisions of such Order shall prevail over the provisions of such subsidiary legislation.

(6) For the purposes of this section, the expression " subsidiary legislation " means any by-law, regulation, rule, order, notification or other provisions having the effect of law and made by a person by virtue of the power conferred on him by any written law.

PART V

GENERAL POWERS OF THE BOARD

Power to hold, lake. &c., property.

30. The Board shall have power to acquire, hold, take or give on lease or hire, mortgage, pledge and sell or otherwise dispose of, any immovable or movable property.

Powers of the Board in relation to members of its staff and the administration of its business.

31. The Board shall have all or any of the following powers :—

- (a) to provide welfare and recreational facilities, houses, hostels and other like accommodation for the members of the staff of the Board ;
- (b) to do anything for the purpose of advancing the skill of members of the staff of the Board or the efficiency of the equipment of the Board or the manner in which that equipment is operated, including the provision by the Board, and the assistance of the provision by others, of facilities for training persons required to carry out the work of the Board ;
- (c) to construct, manufacture, purchase, maintain and repair anything required for the purpose of the business of the Board;
- (d) to delegate to any member of the staff of the Board, or to any member of the Board, any such power, function or duty of the Board as the Board may consider necessary so to delegate for the efficient transaction of business;
- (e) to make rules in respect of the administration of the affairs of the Board; and
- (f) to do all such other acts or things which, in the opinion of the Board, are necessary to facilitate the proper carrying on of its business.

Power of the Board to enter into contracts, &c.

32. (1) For the purpose of the exercise, discharge or performance of its powers, functions or duties, the Board may enter into and perform all such contracts as may be necessary for that purpose.

(2) The Board may establish its own branches or agencies for the purpose of any work of planning, designing, construction or operation, or make contracts or other arrangements for such purposes with Government Departments, local authorities, or research institutions, or other persons (whether in or outside Sri Lanka),

33. The Board may compound any claim or demand made against the Board for such sum or other compensation as the Board may deem sufficient.

Power of the Board to compound claims.

34. (1) It shall be lawful for the Board, subject to the approval of the Minister, to borrow from the Government or any person or persons such sum or sums of money as may be necessary for any of the purposes of the Board.

Powers to borrow.

(2) Every loan raised by the Board shall be subject to such rate or rates of interest and to such conditions for the repayment thereof as may be approved by the Minister.

(3) For the purpose of securing the repayment of any sum or sums borrowed by the Board and interest accruing thereon, the Board may mortgage or assign to the lender or lenders by or on whose behalf such sum or sums or any part thereof may be lent, any property belonging to the Board or any other sums of money accruing to the Board.

35. (1) The Board may.—

Compounding of offences.

- (a) if no prosecution for an offence under this Act is actually pending, compound such offences; or
- (b) if a prosecution for such offence is actually pending, compound such offence with the consent of the Magistrate,

for such sum of money as the Board may deem sufficient, being a sum of money which is not less than, or is not more than double, the maximum amount of the fine which may be imposed for that offence under this Act:

Provided, however, that where any such offence is compounded by the Board with the consent of a Magistrate the reasons for giving such consent shall be recorded by the Magistrate.

(2) The compounding of an offence under this section shall have the effect of an acquittal of the accused.

39. The amount of all fines and penalties paid or recovered under this Act shall be paid into the Fund of the Board :

Fines and penalties (to be paid into the Fund of the Board.

PART VI

GENERAL

Protection for action taken under [his Act, &c., or on the direction of the Board.

36. (I) No suit or prosecution shall lie

(a) against the Board for any act which in good faith is done or purports to be done by the Board under this Act, or any Order made thereunder,

(b) against any member, officer, servant or agent of the Board for any act which in good faith is done or purports to be done by him under this Act or any Order made thereunder, or on the direction of the Board.

(2) Any expense incurred by the Board in any suit or prosecution brought by or against the Board before any court shall be paid out of the Fund of the Board, and any costs paid to, or recovered by, the Board in any such suit or prosecution shall be credited to the Fund of the Board.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or purports to be done by him under this Act or any Order made thereunder, or on the direction of the Board shall, if the court holds that the act was done in good faith, be paid out of the Fund of the Board.

No writ to issue against person or property of a member of the Board.

37. No writ against person or property shall issue against a member of the Board in any action brought against the Board.

Effect of certain documents.

38. Every document purporting to be an instrument issued by the Board and to be sealed as required by this Act or to be signed by or on behalf of the Board shall be received in evidence and be deemed to be such an instrument without further proof until the contrary is shown.

Provided, however, that any sum of money for which an offence under this Act is compounded by the Board shall be paid by the Board to such charity as may be determined by the Board.

40. The Board shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

The Board deemed to be a scheduled institution within the meaning of the Bribery Act.

41. The Board or any person authorized in that behalf by the Board, may by notice require any person to furnish to the Board or the person so authorized, within such period as shall be specified in the notice, all such returns or information relating to all such matters as may be necessary to enable the Board to prepare tourist or other schemes under this Act and as are within the knowledge of that person.

Returns and information.

42. The Board or any person authorized in that behalf by the Board may, for the purpose of the preparation of any tourist scheme or of the exercise or performance of the powers or duties conferred or imposed on the Board under this Act, enter upon or into any land or structure situated in the area for which that scheme is to be made, and may make such inspections, surveys, examinations or inquiries as may be necessary for any such purpose.

Powers of entry, &c.

43. (1) Any notice, order, instrument or other document required under this Act or any Order made thereunder to be served on any person may be served—

Service of notices, &c.

(a) by delivering it to that person ; or

(b) by leaving it at the usual or last known place of abode of that person, or, in the case of a body corporate, at the office of that body; or

(c) by sending it by registered post addressed to that person at his usual or last known place of abode, or, in the case of a body corporate, to the office of that body.

(2) Any document which is served in accordance with the provisions of subsection (1) shall be deemed to have been duly served on the person to whom it is addressed.

Power of companies, &c., to enter into contracts with the Board.

44. Any local authority or other body of persons (whether corporate or unincorporate) may, notwithstanding anything to the contrary in any written law or instrument relating to its functions, enter into and perform all such contracts with the Board as may be necessary for the exercise, discharge or performance of the powers, functions or duties of the Board.

Contracts.

45. (1) Contracts on behalf of the Board may be made as follows ;—

- (a) a contract which if made between private persons would be by law required to be in writing, may be made on behalf of the Board in writing under the common seal of the Board ;
- (b) a contract which if made between private persons is by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the Board in writing signed by any person or persons duly authorized thereto as hereinafter provided; and
- (c) a contract which if made between private persons would by law be valid although made by parol only and not reduced into writing, may be made by parol on behalf of the Board by any person or persons duly authorized thereto as hereinafter provided.

(2) A contract made according to this section shall be effectual in law and shall bind the Board and all parties thereto and their legal representatives.

(3) A contract made according to this section may be waived or discharged in the same manner in which it is authorized by this section to be made.

46. (1) No person who is not registered by the Board under this Act as fit and suitable for employment in any tourist service,—

Use of certain words and doing of certain acts or things prohibited.

(a) shall use any name, title, addition or description; or

(b) shall do any act or thing.

implying or calculated to imply, or giving or calculated to give the impression, that he is so registered.

(2) No person shall, in or in connexion with the operation of any tourist services,—

(a) use any name, title, addition or description; or

(b) do any act or thing,

implying or calculated to imply, or giving or calculated to give the impression, that such service is registered or approved by the Board, unless such service is so registered or approved, as the case may be.

47. (1) The Board may make rules in respect of all or any matters for which rules are authorized or required by this Act to be made.

Power to make rules-

(2) No rule made by the Board under this Act shall have effect until it has been approved by the Minister.

48. (1) The Minister may from time to time, by Order published in the Gazette, declare that any service of any class or description specified in the Order, being a service providing, or intended to or capable of providing, tourist travel, or accommodation or refreshment or amusements or sports, or other facilities or attractions of any kind whatsoever, to tourists, shall be a tourist service for the purposes of this Act.

Power of Minister to make Orders.

(2) The Minister may from time to time, by Order published in the Gazette, transfer the control of any resthouse to, and vest such control in, such person as may be specified in the Order.

(3) Every Order made under the preceding provisions of this section shall come into force upon the date of its publication in the Gazette or on such later date as may be specified therein.

(4) Every Order made under the preceding provisions of this section shall, upon its coming into force as hereinbefore provided, be as valid and effectual as if it were herein enacted-

(5) Any Order made under subsection (2) shall have effect notwithstanding anything in the Reshouses Act or any Order made thereunder.

Offences.

49. (1) Every person who—

- (a) knowingly makes any false or incorrect statement in any application, return or other document made or furnished under or for the purposes of this Act or of any Order made thereunder; or
- (b) fails or refuses to furnish any information or return required by this Act, or any Order made thereunder, to be furnished by him ; or
- (c) resists or obstructs any person in the exercise, discharge or performance of any power, function or duty conferred or imposed upon that person by or under this Act, or any Order made thereunder,

shall be guilty of an offence.

(2) Every person who contravenes any provision of any Order made under this Act, other than any such provision relating to any matter or thing referred to in subsection (1), shall be guilty of an offence.

Penalties for offences.

50. Every person who commits an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees.

51. No prosecution for an offence under this Act shall be instituted in any court except with the written sanction of the Board.

No proceedings except with written sanction of the Board.

52. Where an offence under this Act is committed by a body of persons, then,—

Offences by bodies of persons.

(a) if that body of persons is a body corporate, every director and officer of that body corporate; or

(b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence :

Provided, however, that a director or an officer of such body corporate, or a partner of such firm, shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

53. The Guides Ordinance* is hereby repealed with effect from such date as the Minister may appoint by Order published in the Gazette. Until the date of such repeal, the reference in the definition of " proper authority " in section 3 of that Ordinance to the Director, Government Tourist Bureau, shall be deemed to be a reference to the Director-General of Tourism.

Repeal of Guides Ordinance.

54. In this Act, unless the context otherwise requires—

Interpretation,

" Fund " means the Fund of the Board ;

" local authority " includes any Municipal Council, Urban Council, Town Council or Village Council;

"Minister " means the Minister to whom the subject or function of tourism has been assigned by the President;

" the Board " means the Ceylon Tourist Board established under this Act;

" resthouse " means a public resthouse, and includes any premises appertaining to any resthouse, and

* See List of enactments omitted from the Revised Edition.

any *ambalama*, *maddum* or other public buildings for the shelter of travellers;

"tourist" means a person travelling to, from, or in, Sri Lanka, whether or not such person is a resident of Sri Lanka;

"tourist scheme" means a tourist scheme prepared by the Board under this Act;

"tourist service" means a service of any class or description declared to be a tourist service for the purposes of this Act by any Order made by the Minister under this Act, and the expression "tourist services" shall be construed accordingly;

"tourist travel" means tourist travel to, in or from. Sri Lanka.

CHAPTER 542

COLOMBO WATERWORKS

Ordinances AN ORDINANCE TO TRANSFER THE CEYLON GOVERNMENT WATERWORKS TO THE
 Nos. 18 of 1907, MUNICIPAL COUNCIL OF COLOMBO.

27 of 1914,
 8 of 1915,
 9 of 1916,
 9 of 1918,
 28 of 1921,
 25 of 1928,
 28 of 1930,
 4 of 1932,
 23 of 1942,
 29 of 1947.

[2nd January, 1908.]

Short title. **1.** This Ordinance may be cited as the Colombo Municipal Council Waterworks Ordinance.

hereinafter required to be performed and exercised by the Waterworks Engineer may be performed and exercised by any officer authorized thereto in writing by the Waterworks Engineer.

Transfer of Ceylon Government Waterworks to Municipal Council of Colombo. **2.** From and after the commencement of this Ordinance the waterworks, hitherto known as the Ceylon Government Waterworks, shall belong to and be vested in the Municipal Council of Colombo (hereinafter referred to as "the Council"), and shall be known as "The Colombo Municipal Council Waterworks", and all tanks, reservoirs, cisterns, fountains, wells, aqueducts, conduits, tunnels, pipes, pumps, or other waterworks existing at the commencement of this Ordinance, or afterwards made, laid, or erected, and whether made, laid, or erected at the cost of the Council or otherwise, and all roads, ways, rights, servitudes, bridges, buildings, engines, works, materials, and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any such works, shall be vested in the Council. And the Council shall have the right of breaking open the soil at any place for the purpose of using, repairing, or replacing the said pipes:

4. In the execution of the duties and exercise of the powers conferred upon him by this Ordinance, the Waterworks Engineer shall be subject to the directions and control of the Mayor of the Council.

Waterworks Engineer subject to control of Mayor of Council.

5. The Council shall confirm the appointments of such of the officers of the Ceylon Government Waterworks holding office at the commencement of this Ordinance as are willing to take service under the Council, on such terms as shall be offered by the Council.

Provision as to existing staff.

6. The Council shall defray from the Municipal Fund all costs and charges in respect of the maintenance of the waterworks, and such salaries, wages, and pensions as may be earned by the staff engaged thereon or may become due to them by reason of their service under the Council.

Payment of costs of maintaining waterworks.

Provided that it shall with all convenient speed restore the ground broken open to its former condition.

Power of Municipal Council to appoint Waterworks Engineer, &c. **3.** The Council shall appoint a fit and proper person, who shall be called the Waterworks Engineer, to perform the duties and exercise the powers hereinafter mentioned, and such inspectors, sub-inspectors, clerks, and other officers as may be necessary; and all duties and powers

7. The Council shall provide a supply of drinking water within the Municipality of Colombo, and shall for that purpose cause such pipes to be laid, and such tanks, reservoirs, or other works to be made, as are necessary for the supply of wholesome water in the public streets of the Colombo Municipality, and shall erect in such streets convenient stand-pipes, fountains, open reservoirs, or pumps for the gratuitous use of the inhabitants of the Municipality for

Duty of Council to supply water within Municipal limits.

domestic purposes. It shall be the duty of the Council, as far as possible, to make adequate provision that such supply of water shall be continuous throughout the year, and that the water supplied shall be at all times fit for human consumption.

8. Subject to the provisions of section 20, the Council shall within the limits of the Municipality of Colombo provide a supply of water for the use of the Government and of the armed forces, which for domestic purposes shall be supplied free of charge, but for other than domestic purposes shall be supplied in accordance with the provisions of this Ordinance and of any regulations made thereunder relating to the supply of water for other than domestic purposes.

***9.** The Council may, on application by the owner or occupier of any house, allow a private service of water to such house for domestic purposes, in such quantities and under such conditions as the Council shall deem reasonable.

***10.** When a private service is allowed, the Council shall make the necessary connection between the street waterworks pipe and the boundary of the street as near as conveniently may be to the premises to be served, but the cost of such connection and of all further piping and of all internal fittings requisite for such private service shall be borne by the owner or occupier;

Provided, however, that no connection shall be made with the street waterworks pipe until the cost thereof, as estimated by the Waterworks Engineer, shall have been deposited with the Council, and until all the private piping and internal fittings requisite for the private service shall have previously been erected and completed to the satisfaction of the Waterworks Engineer.

11. The works, other than the connection between the street waterworks pipe and the boundary of the street as near as conveniently may be to the premises to be served, necessary for such private service, and all future repairs, extensions, and alterations of such works, shall in every case be in accordance with the regulations

contained in the Schedule and such further regulations as shall, from time to time, be made in that behalf by the Council with the consent of the Minister, and shall be executed by the Waterworks Engineer, or, if the owner or occupier applying for the private service so desires, by a plumber licensed by the Council and employed by the owner or occupier. Every such plumber shall, while so employed, be subject to the orders of the Waterworks Engineer and shall complete such works or such repairs, extensions or alterations to the satisfaction of the Waterworks Engineer.

If the said works, or the repairs, extensions, and alterations of the same shall be executed by the Waterworks Engineer, the expense thereof, when certified under the hand of the Waterworks Engineer, shall be defrayed by such owner or occupier, and the same may be recovered by the Council as if it were a tax payable under the Municipal Councils Ordinance and any existing or future amending enactments, and when recovered shall be accounted for as the Council may direct.

***12.** (1) Where it appears to the Mayor that any tenement-house or range of tenements capable of being occupied by thirty or more persons within the Municipal limits is without a proper service of water, and that the necessary arrangements for such a service (in so far as these are not required to be made by the Council) can be made at a reasonable cost, the Mayor may give notice in writing to the owner of such tenement-house or range of tenements requiring him within a time therein specified to obtain such proper private service, and to execute all such works as may be incumbent upon him for the purpose.

(2) If such notice is not complied with within the time specified, the Mayor may cause the work to be executed and costs thereof recovered in the manner prescribed by section 11.

13. The Council shall cause all public tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps, fountains, and other works used for the supply of

Supply of water to Government.

Power of the Municipal Council to allow a private service of water.

When private service is allowed Council to make the connection between street waterworks pipe and the near boundary of the premises to be served.

Execution of works other than connections with street pipe.

When may owner of tenements be compelled to install private service.

Maintenance of waterworks.

* See section 323 of the Municipal Councils Ordinance for the application of this section to Galle.

water and vested in the Council by this Ordinance to be maintained and supplied with water, as well as any further works which may be constructed by the Council for such purpose.

Council to construct filters and other works.

14. The Council may, from time to time, construct filters, tanks, aqueducts, or other works for bringing wholesome water into the Municipality of Colombo for the use of the inhabitants.

Power of the Council to break up streets, &c., and enter private land.

15. (1) The Council in laying down any pipes for the water supply of the Municipality may, if they consider it necessary, carry such pipes through, across, or under any street or any place laid out or intended for a street, or under any building, or through any cellar or vault, or into, through, or under any enclosed or other land whatsoever. The Council shall, in every such case, give two calendar months' notice of their intention so to do to the owner of the property affected by such work, and shall on completion of the work pay to him reasonable compensation for any loss or damage sustained by him by reason of the carrying out of any work authorized by this section. If any dispute arises as to the amount or apportionment of such compensation, such amount or apportionment shall be summarily ascertained and determined by the Judge of the Primary Court of Colombo, whose decision shall be subject to an appeal to the Court of Appeal.

(2) Every such appeal shall be presented within the time and in the manner and subject to the rules and practice provided for and observed in appeals from orders of Primary Courts in their ordinary jurisdiction.

Power to lay or enlarge water main along private street.

16. (1) If any private street has been constructed to which one or more houses have access, the Council may, after having passed a resolution to that effect, lay, enlarge, or extend a water main along such private street of such dimensions as may be necessary, and may apportion the whole or part of the cost of the laying, enlarging, or extending such main among the owners of the premises fronting upon, adjoining,

abutting, or having access to, or deriving any degree of benefit from, such main according to the areas of the respective premises which may derive, or be so situated as to derive, any such benefit from the laying, enlarging, or extending of the said main.

(2) The initial cost of laying, enlarging, or extending such main shall be borne by the Council, and the property in the said main shall remain in the Council.

(3) The sums apportioned for payment by the owners of the respective premises shall be made a charge upon such premises, and may be recovered as if the same were a rate upon a private water service being granted to such premises; and no private service shall be granted to such premises until the sum apportioned in respect thereof has been paid or an engagement to pay the same be made with the Council as hereinafter provided.

(4) When any premises in any such private street has an already existing supply of water from the Council's mains by private pipes, the Council may, whenever it shall become necessary to take up such private pipes for cleaning or renewal, call upon the owner to connect with the new main.

(5) The Council may, if it is thought fit, on the application of an owner of any such premises, take an engagement from the said owner for the payment by instalments of such sums as will be sufficient to defray the whole amount of the sum apportioned for payment by the said owner, with interest thereon not exceeding the rate of nine *per centum* per annum, within a period not exceeding five years, and such sums when due may be recovered by the same process by which rates may be recovered under the Municipal Councils Ordinance.

(6) (a) In any case where any existing main has been laid in any private street at the expense of any private person, it shall be lawful for such person to recover from the owner or owners of any property fronting upon, adjoining, abutting on, or having

access to such private street, who shall apply to the Council for a private service of water, such an apportionment of the cost of the laying of the said main as may be determined by the Mayor in proportion to the frontage of the premises abutting on such street.

(6) No person shall be permitted to make a connection with any such main until he has paid or given a guarantee for the payment of such apportionment to the satisfaction of such private person.

(7) (i) When any premises fronting upon, adjoining, abutting on, or having access to any such private street has an existing supply of water from the Council's mains by private pipes other than the main which has been laid at the cost of any private person aforesaid, the owner of such premises may be permitted to use such pipes until such time as it shall become necessary to take up such pipes for cleaning or renewal.

(ii) When it shall become necessary to take up such pipes for cleaning or renewal, the owner of the said premises shall not be permitted to re-lay such pipes in their former position, but shall connect them with the main in the private street laid by the private person aforesaid, and shall, before any connection is made therewith, pay such apportionment of the cost of laying the aforesaid main as shall be determined by the Mayor in proportion to the frontage of the premises abutting on such street.

(8) All mains laid in any private street shall vest in the Council, and the cost of their maintenance, renewal, and repair shall be borne by the Council.

(9) Subject to the provisions of subsection (10), any apportionment, made under subsection (1), of the cost of laying, enlarging or extending any main, may be revised by the Council at any time after the date of the completion of the work of laying, enlarging or extending such main.

(10) The power given to the Council in subsection (9) to revise any apportionment shall not be deemed to include the power to increase the sum which any owner is liable to pay under such apportionment.

***17.** The Municipal Council may, with the consent of the Minister, from time to time, by notification in the Gazette, exempt any division or part of a division of the Municipality, or any house, land, or tenement in which the general facilities afforded by the water supply are not fully available, from the payment of the water-rate, if any, leviable under the provisions of the Municipal Councils Ordinance, or of such proportion of the consolidated rate leviable under the said Ordinance as may be assessed in respect of such water supply and may also, from time to time, revoke such exemption by like notification.

Power of the Council to exempt division, house, or land from charge for water.

***18.** Every person paying the water or consolidated rate leviable under the provisions of the Municipal Councils Ordinance shall be entitled to have, free of further charge in respect thereof, a supply of water from the public stand-pipes for the domestic use of himself and his household.

Right of rate-payers to free use of water from public stand-pipes for domestic purposes.

***19.** A supply of water for domestic purposes shall not include a supply of water for horses or cattle or for washing vehicles, where such horses, cattle, or vehicles are kept for sale or hire, or a supply for any trade, manufacture, or business, or for fountains or swimming baths, or for any ornamental or mechanical purpose, or for purposes of irrigation,

" Domestic purposes ", what not included in.

***20.** (1) Where a person who is provided with a supply of water for domestic purposes or is allowed a private service of water for such purposes desires to use the water for horses or cattle or for washing vehicles, the Council may, if such water is supplied through an external tap, charge for such supply (except where the water so used is taken by meter) such sum as the Council may, from time to time, by regulation prescribe.

External taps.

(2) Where water supplied by the Council to a person who takes a supply both for domestic purposes and by meter for other than domestic purposes is used by him by means of an external tap for horses or cattle or for washing vehicles, the Council may require that all water used by means of such tap shall be taken by meter and paid for at

* See section 323 of the Municipal Councils Ordinance for the application of this section to Galle.

the rates for the time being in force for the supply of water by meter.

(3) Any sum chargeable under this section may be recovered as if it were a tax imposed under the Municipal Councils Ordinance.

(4) In this section—

" horses ", " cattle " or " vehicles " does not include horses, cattle, or vehicles which are kept for sale or hire ;

" external tap " means any tap fixed outside any building or in any garage, stables or other premises where horses, cattle or vehicles are kept;

" person " includes the Government and the armed forces.

***21.** The Council may agree with any person to supply water by meter or otherwise for other than domestic purposes, in such manner and in such quantities, on such terms, and subject to such conditions and to such regulations as may from time to time be determined and made by the Council.

***22.** All sums due on account of any water supplied under section 21 shall, when certified by the Waterworks Engineer, be recovered by the Council as if the same were a tax under the Municipal Councils Ordinance, and any existing or future amending enactments, and shall be accounted for as the Council may direct under the regulations hereto.

***23.** All meters shall be the property of the Council, and shall be supplied and maintained in repair by the Council; and rent for the meter shall be paid by the owner or occupier of the premises supplied through the meter in the manner and at the rate prescribed by regulations under this Ordinance.

***24.** The Council shall not be liable to any damages or penalty for failure on their part to supply water (whether they have contracted to supply the same or not) if such failure is due to unusual drought, or to any temporary interference with the supply caused by carrying out any work, or to any other unavoidable cause or accident.

25. The Waterworks Engineer or any person authorized in that behalf by him may, at any time between eight of the clock in the morning and five of the clock in the evening, after giving not less than one hour's notice to the occupier of any building or premises supplied with water under this Ordinance, enter such building or premises and examine the condition of the pipes, works, and fittings, and ascertain if there be any waste or misuse of such water. If the Waterworks Engineer or any person authorized by him is at any such time without reasonable cause refused admittance into such building or premises for the purpose aforesaid, or is prevented without reasonable cause from making such examination, the Waterworks Engineer may stop the supply of water to such building or premises.

Power of Waterworks Engineer to enter and examine premises.

26. If any person supplied with water from the waterworks wilfully or negligently causes or suffers any pipe, valve, cock, cistern, soil pan, water-closet, or other apparatus or receptacle to be out of repair, or to be so used or contrived that the water supplied to him from the waterworks is or is likely to be wasted, misused, unduly consumed, or contaminated, or so as to occasion or allow the return of foul air or other noisome or impure matter into any pipe belonging to or connected with the pipes of the waterworks, he shall be guilty of an offence, and be liable for every such offence to a fine not exceeding one hundred rupees.

Penalty for suffering pipes, &c., to be out of repair.

27. The Waterworks Engineer may repair or renew or substitute any pipe, valve, cock, cistern, soil pan, water-closet, or other apparatus or receptacle, so as to prevent any waste of water, and the expense of such repair or renewal or substitution when certified under his hand, shall be defrayed by the owner or occupier of the premises, and the same may be recovered by the Council as if it were a tax payable under the Municipal Councils Ordinance, and any existing or future amending enactments, and when recovered shall be accounted for as the Council may direct.

Power of Waterworks Engineer to repair pipes, &c.. and recover expenses.

28. Every person who—

(a) not having a supply of water from the waterworks for other than domestic

Misuse of water.

* See section 323 of the Municipal Councils Ordinance for the application of this section to Galle.

Power of Municipal Council to supply water for other than domestic purposes.

Recovery of sums due on account of water so supplied.

Meters.

Liability of the Council for failure to supply water.

purposes, uses for other than domestic purposes any water supplied to him from the waterworks; or

(b) having from the waterworks a supply of water for any other than domestic purposes, uses for any purposes other than those for which he is entitled to use the same any water supplied to him from the waterworks,

Penalty. shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding twenty rupees, without prejudice to the right of the Council to recover from him the value of the water misused.

Penalty for affixing pipe or apparatus to communication or other pipe without the consent of the Waterworks Engineer. **29.** It shall not be lawful for the owner or occupier of any premises supplied with water from the waterworks, or any consumer of the water of the waterworks, or any other person, to affix or cause or permit to be affixed any pipe or apparatus to any pipe or apparatus provided for the conveyance, reception, or control of water from the waterworks, whether or not such pipe or apparatus is the property of the Council or private property, without the consent in every such case of the Waterworks Engineer; and if any person acts in any respect in contravention of the provisions of this section, he shall, for every such offence, be liable to a fine not exceeding fifty rupees, without prejudice to the right of the Council to recover damages from him in respect of any injury done to the waterworks property, and without prejudice to their right to recover from him the value of any water wasted, misused, or unduly consumed.

Penalty for supplying water to, or permitting it to be taken from supplied premises by, any other person. **30.** Every owner or occupier of any premises supplied with water under this Ordinance, who shall supply to any other person or wilfully permit him to take any such water from any cistern or pipe in such premises, unless for the purpose of extinguishing any fire, or unless he be a person supplied with water from the waterworks, and the pipes supplying him be, without his default, out of repair, shall be guilty of an offence, and liable to a fine not exceeding fifty rupees.

31. Every person who wrongfully takes or uses any water from any reservoir, watercourse, conduit, or pipe belonging to the waterworks, or from any pipe leading to or from any such reservoir, watercourse, conduit, or pipe, or from any cistern or other like place containing water belonging to or supplied from the waterworks, or for the use of any consumer of the water of the waterworks, other than such as may have been provided for the gratuitous use of the public, shall be guilty of an offence punishable with a fine not exceeding one hundred rupees.

Penalty for taking or using water from reservoir, &c.

32. Every person who, without the authority of the Waterworks Engineer, shall wilfully or carelessly break, injure, open, close, or wrongfully interfere or tamper with any lock, hydrant, cock, valve, pipe, work, or engine belonging to the waterworks, or shall draw off the water from the reservoirs or other works belonging to the waterworks, or shall do any other wilful act whereby such water shall be wasted, or the supply thereof interfered with, shall be guilty of an offence, and be liable on conviction to a fine not exceeding one hundred rupees.

Penalty for destroying or injuring works, &c., and wasting water.

***33.** If any person supplied with water from the waterworks does or causes or permits to be done anything in contravention of any of the provisions of this Ordinance, or of the regulations made hereunder, or wrongfully fails to do anything which under any of those provisions ought to be done for the prevention of the waste, misuse, undue consumption, or contamination of the water belonging to the waterworks, the Waterworks Engineer may (without prejudice to any remedy against such person in respect thereof) cut off any of the pipes by or through which water is supplied to such person or for his use, and may cease to supply him with water.

Power of Waterworks Engineer to cut off water supply in certain cases.

***34.** In all cases in which the Waterworks Engineer is by this Ordinance authorized to cut off or stop the supply of water to any building or premises, and in all cases in which any building or premises supplied with water by the Council shall

Waterworks Engineer or his agents may enter any building or premises for cutting off water supply.

* See section 323 of the Municipal Councils Ordinance for the application of this section to Galle.

have become unoccupied, the Waterworks Engineer, his agents and workmen, after giving reasonable notice to the owner or occupier, may enter such building or premises between the hours of eight of the clock in the morning and five of the clock in the evening and cut off any pipes by which such water is conveyed to such premises, and may remove any pipe, meter, fittings, and apparatus, the property of The Council.

belonging to the Council, or doing any other act whereby the water belonging to the waterworks shall be fouled;

and every such person shall be liable to a further fine of ten rupees for each day (if more than one) that such last-mentioned offence shall be continued.

35. Every person who shall commit any of the offences next hereinafter enumerated shall for every such offence be punished with a fine not exceeding fifty rupees, that is to say :—

- (a) bathing in any stream, reservoir, aqueduct, or other waterworks belonging to the Council, or washing, throwing, or causing to enter therein any dog or other animal;
- (b) throwing any rubbish, dirt, filth, or other noisome thing into any such stream, reservoir, aqueduct, hydrant, surface-box, or other waterworks as aforesaid, or washing or cleansing therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing;
- (c) trespassing upon land belonging to the waterworks or upon the buildings or premises connected with the water supply ;
- (d) unlawfully breaking, injuring, or in any other manner causing damage to any channel, tank, reservoir, cistern, well, fountain, stand-pipe, or other work connected with the water supply;
- (e) causing the water of any sink, sewer, or drain, steam engine, boiler, or other water belonging to him or under his control, to run or be brought into any stream, reservoir, aqueduct, or other waterworks

36. (1) Whoever, being the owner, superintendent, agent, manager, or occupier of any premises in which any business is carried on does or causes to be done any act connected with such business by which the water in any stream, reservoir, cistern, aqueduct, or other work belonging to the waterworks is or is likely to be fouled, shall be guilty of an offence, and liable on conviction, notwithstanding the provisions of section 35, to a fine not exceeding one thousand rupees, and a further fine not exceeding five hundred rupees for each day on which the offence is continued after the expiration of twenty-four hours after a notice signed by the Waterworks Engineer is served on any such person.

(2) The Waterworks Engineer or any person authorized by him in writing in that behalf may, with the permission of the Mayor, after the expiration of twenty-four hours after a notice signed by the Waterworks Engineer of his intention so to do has been served on such owner, superintendent, agent, manager, or occupier, lay open and examine any pipe or work directly or indirectly connected with such premises, and any stream, reservoir, cistern, aqueduct, or other work belonging to the waterworks.

37. If upon such examination it appears that any water has been fouled by anything proceeding from or contained in the pipe or works examined, the expenses of such examination shall be paid by the person to whom such pipes or works belong, or under whose management or control they are. If upon such examination it appears that such water has not been so fouled, then such expenses shall be borne by the Council.

Penalty for fouling water, &c.

Penalty for doing any act connected with any business by which the water in any stream, &c., belonging to the waterworks is fouled.

Cost of laying open pipes to abide the result of the examination.

Waterworks Engineer to place and maintain fire hydrant.

38. The Waterworks Engineer shall, at the request and expense of the owner or occupier of any work or manufactory situated in any street in which there is a pipe of the waterworks, place and maintain in effective order a fire hydrant (to be used only for extinguishing fires) as near to such work or manufactory as the Waterworks Engineer thinks fit.

Regulations.

39. The regulations in the Schedule shall be observed within the Municipality, and it shall be lawful for the Council to make, from time to time, such further regulations as may appear expedient for any of the following purposes:—

- (a) for preventing waste, misuse, undue consumption, or contamination of the water supplied by the Council for public or private use;
- (b) for directing the use and prescribing the size, nature, strength, and materials, and the mode of arrangement, position, alteration, removal, renewal, and repair of the pipes, valves, cocks, cisterns, soil pans, water-closets, and other apparatus and receptacles, or any of them, to be used respectively for carrying, delivering, regulating, and storing water;
- (c) for establishing, maintaining, and regulating public bathing places and places for washing animals or clothes;
- (d) for regulating the public supply of water by stand-pipes, and the use of the same;
- (e) for regulating the supply of water by private services, and the materials and fittings to be used therefor;
- (f) for licensing plumbers for the purposes of section II, and for prescribing the security to be furnished by licensed plumbers, the fees payable for, and

the conditions to be attached to, licences issued in that connexion, including the cancellation of such licences whether in the absolute discretion of the Waterworks Engineer or in prescribed circumstances;

- (g) for regulating the supply of water by measurement, and the materials, meters, appliances, and fittings used for such a purpose and in connexion therewith;
- (h) for regulating the terms and conditions subject to which water will be supplied for other than domestic purposes, and the price to be paid for water so supplied ; and
- (i) for every other purpose relating to the supply or control of water supplied from the waterworks as to the Council shall appear necessary.

40. The Council may, from time to time alter, amend, or cancel any regulations or all such regulations, and substitute another or others therefor not inconsistent with the provisions of this Ordinance :

Power of the Council to alter regulations.

Provided that no regulation shall be repugnant to any law in force in Sri Lanka, and that no fine for any infringement of a regulation shall exceed fifty rupees, and that in case of a continuing infringement no fine shall exceed ten rupees for each day after written notice from the Mayor of the Council of such infringement.

41. No regulation or alteration, amendment, or cancellation of, or substitution for, any regulation shall have effect until the same is confirmed by the Minister. Notice of such confirmation shall be given by notification to be made in that behalf; and such regulations when so confirmed and published in the Gazette shall be as valid and effectual as if they had been herein enacted.

Confirmation of regulations by Minister.

42. Every person committing a breach of any of the regulations contained in the

Penalty for breach of regulations.

Schedule or made under sections 39 and 40 hereof shall be guilty of an offence, and shall, subject to the provision of section 40 hereof regarding continuing infringement of regulations, be liable on conviction to a fine not exceeding fifty rupees, or, in the case of regulations made under sections 39 and 40 hereof, to such fine as may be prescribed therein.

Service of notices.

43. When any notice is required by this Ordinance to be given to the owner or to the occupier of any house, building, or land, such notice addressed to the owner or occupier may be served on the occupier of such house, building, or land, or left with some adult member or servant of his family, or if the notice cannot be so served, or if there be no occupier, may be put up on some conspicuous part of such house, building, or land; and it shall not be necessary in any such notice to name the occupier or the owner. Any person receiving the rent of any house, building, or land, either on his own account or as agent for another, shall, for the purposes of this Ordinance, be deemed the owner of such house, building, or land.

Jurisdiction to the Municipal Magistrate or the Magistrate of Colombo to entertain prosecutions.

44. Every prosecution under this Ordinance may be instituted before the Municipal Magistrate or the Magistrate of the Magistrate's Court of Colombo; and every fine imposed under this Ordinance, or any regulation made in pursuance thereof, may be recovered by a summary proceeding before either of such Magistrates. It shall be lawful for either of such Magistrates to impose the full fine or penalty herein or in any regulation provided, notwithstanding that the aggregate amount

of such fines or penalties may exceed the sum which it is competent for him in the exercise of his summary jurisdiction to award.

45. If at any time it appears to the Minister that the Council are omitting to fulfil any duty or carry out any work imposed upon them by this Ordinance, he shall give notice to the Council in writing that, unless they do, within fifteen days of the date of such notice, show cause to his satisfaction against such appointment, he will appoint a special officer to inquire and report to him the facts of the case, and to recommend what steps such officer thinks necessary for the purpose of fulfilling such duty or carrying out such work. Such inquiry shall be conducted as far as may be practicable in an open manner.

Power of Minister to appoint special officer to report in certain cases.

46. On the receipt of the report of the officer appointed under section 45 the Minister shall determine what duty or work shall be done or executed, and make an order requiring the Council within a time to be specified in such order to fulfil such duty or carry out such work, and to raise the funds necessary for such duty or work from some one or more of the taxes provided by the Municipal Councils Ordinance or by means of a loan.

Power of Minister to order the Council to execute any work.

47. If the Council fail within such specified time to comply with such order, the Minister may direct the Mayor or appoint any other person to fulfil such duty or carry out such work, and may fix the remuneration to be paid to such person, and may direct that such remuneration and the cost of such work shall be defrayed out of the Municipal Fund.

Enforcement of order.

SCHEDULE

REGULATIONS*

[Sections 11 and 39.]

1. Water shall be taken from the public stand-pipes only in buckets or other suitable receptacles, and in such a manner as to prevent its flow into any drain, side channel, or on to the surface of any road, footpath, or area.

2. No hose pipe, pipe, tube, shoot, or other contrivance of any nature whatsoever shall be attached either temporarily or permanently to any public stand-pipe.

3. No automatic self-closing valve or other automatic appliance attached to or forming part of any public stand-pipe shall be interfered with so as to prevent either temporarily or permanently its automatic action.

* See also the Licensing of Plumbers Regulations, 1942. — Gazette No. 9,024 of 23rd October, 1942.

4. No water drawn from any private service shall be used in connexion with any trade, manufacture, or business, or for any ornamental or mechanical purpose, or for purposes of irrigation, unless an agreement in the form A in this Schedule shall have been previously entered into with the Municipal Council. Agreements already entered into under section 16 of Ordinance No. 7 of 1886, as amended by section 2 of Ordinance No. 7 of 1911,* shall continue to be in force as if the Municipal Council is party thereto in place of the Waterworks Engineer under the said Ordinance on behalf of the Government.

5. Not more than one service connection pipe for the supply of water to any premises within the same curtilage and under the same assessment shall be connected to the waterworks,

6. Whenever water is found running to waste from any tap, meter, pipe, or other fitting which is supplied with water from the waterworks, the Waterworks Engineer or person duly authorised by him under section 3 of this Ordinance may at once cut off the water, and such service shall not be reconnected until the cause of the waste is remedied.

7. The Waterworks Engineer may, upon being satisfied that good and sufficient reasons exist for considering that the arrangement, siting, position, nature, or condition of any pipe, tap, valve, meter, or other fitting situated within private premises and connected with the waterworks is likely to lead to waste, misuse, undue consumption, or contamination of the water supplied from the waterworks for public or private use, or to be prejudicial to the proper control and distribution of water from the waterworks, serve a notice upon the owner or occupier of such premises in the form B in this Schedule specifying the alterations required, and such alterations shall be made by the owner or occupier to the satisfaction of the Waterworks Engineer forthwith. In the event of the name or residence of the owner or occupier being unknown, such notice shall be affixed in a conspicuous place upon the premises to which it refers, after which it shall be taken as duly served within the meaning of these regulations.

8. The Waterworks Engineer may diminish, withhold, or suspend, stop, turn off, or divert the supply of water through or by means of any pipe, service, public fountain, or other appliance connected to the waterworks either wholly or in part, or whenever such Waterworks Engineer may think fit, and without prejudice to any water-rate, meter rent, or other sums due or to become due under this Ordinance or regulations thereunder—

- (a) whenever the available supply of water from the waterworks shall, in the opinion of the Waterworks Engineer, be insufficient;
- (b) whenever it may be expedient or necessary for the purpose of extending, altering, or repairing the waterworks, or for the purpose of the connection of services ;
- (c) whenever any public stand-post is damaged, or the water thereof polluted or wasted ;
- (d) if the construction or laying of any service by the owner of any premises is not made, altered, or readjusted in accordance with the provisions of this Ordinance or any regulations made thereunder;
- (e) if default be made in the payment of any money due under this Ordinance or any regulations made thereunder from the owner or occupier of any premises, or so long as such default continues, or at the request of the owner of the tenement or if default be made by the owner or occupier of any premises used as a private boarding-house in furnishing, when required to do so at any time, a return showing the number of paying guests or boarders residing in the said premises ;
- (f) in case of fire ;
- (g) if any act or thing be done or omitted contrary to the provisions of this Ordinance, or any regulations made thereunder in relation to any damage, waste, pollution, or abuse of the waterworks, or any service, meter, or public fountain.

9. All new services, or alterations to, repairs to, or renewing or cleaning, of existing services are to be carried out in accordance with the instructions and to the satisfaction of the Waterworks Engineer.

The right is reserved to the Waterworks Engineer, whilst consulting the wishes of the consumer, as far as practicable, to determine finally all matters concerning the construction or alteration of services, such as the diameter of the pipe to be used, the manner in which it is to be laid, and the number, siting, pattern, and position of the taps. Pipes and fittings of the approved quality only are to be used. And all water fittings and apparatus used, including those supplied from cisterns shall conform to samples approved of by the Waterworks Engineer, which may be seen at his office, and must pass the required test and be officially stamped before being fitted up in any house or premises.

* Repealed by Ordinance No. 18 of 1907.

10. Notice of intention to construct a new service or to alter or extend, clean out or renew any existing one must be given to the Waterworks Engineer by filling up a printed form, which may be obtained on application at the office of the Waterworks Engineer.

This notice (form C in this Schedule) must be addressed to the Waterworks Engineer and delivered at his office, and no such work shall be commenced without the approval in writing of the Waterworks Engineer.

11. No service pipe which may have been connected with the waterworks for a temporary supply of water to a building during its erection, or other similar temporary purpose, shall be used for the permanent supply to the premises till application, as hereinbefore provided has been made and approved of by the Waterworks Engineer.

12. No pipes, valves, or other Fittings forming part of a service may be covered up until they have been inspected and approved by the Waterworks Engineer. After a service has been inspected and approved, it will be connected with the waterworks upon the applicant depositing with the Municipal Council the cost as estimated by the Waterworks Engineer of such connection, including labour, materials, and supervision, and the supply will commence. The connection will be made by the Waterworks Engineer only, and upon completion an account will be rendered to the applicant in the form D in this Schedule, and the unexpended balance, if any, of the sum deposited with the Municipal Council in respect of such service shall be returned. In the event of the estimated cost being exceeded, the applicant, upon receipt of the above-mentioned account, shall forthwith pay to the Municipal Council all further sums due in respect of such service.

13. Every service is to be provided with a strong brass or gun metal stop-cock, or, in cases of services larger than two inches in diameter, with a sluice or slide valve. The stop-cock or valve is to be fixed under the pavement where there is one, as near to the tenement as practicable, but in a public street or place, and is to be provided with a cast iron cover and lid, so that it may at all times be accessible.

14. The service pipe from the street main and up to and including the stop-tap shall be the property of the Municipal Council, and the cost of the necessary repairs to the same shall be paid by the Waterworks Engineer; but should any damage be done to the stop-tap on the service pipe to any premises, it shall be made good by the Waterworks Engineer at the expense of the owner or occupier of such premises, and the cost of the repair of such damage shall be paid to the Council, and the Waterworks Engineer is hereby authorized and empowered to discontinue the supply of water to such premises until such payment is made.

15. The cost estimated by the Waterworks Engineer of laying on water to any premises after it has been cut off for any reason whatsoever shall be paid by the owner or occupier of such premises in advance to the Municipal Council. The unexpended balance, if any, shall be returned to the owner or occupier on the completion of the work, and any excess of cost shall be paid by the occupier or owner on such completion.

16. The Municipal Council, notwithstanding that the requirements have been complied with as regards services, does not hold itself liable for any damage that may arise in premises by bursting or overflowing. Nor will the said Council, by any permission or act, extend its responsibility beyond the main pipes and the service pipes up to and including stop-taps.

17. All pipes used in the construction of services are to be cast iron of approved thickness and quality, or wrought iron, both to be coated with bituminous composition, or galvanized wrought iron, or lead or copper.

18. Wrought iron service pipe shall be of the quality known as " Water Quality (Medium) Tubes " and shall be of the following weights: -

<i>Nominal Bore</i>	<i>Weight per foot of plain end tube</i>	<i>Weight per foot of screwed and socketed tube (the length from the end of the tube to the end of the socket being 20 feet)</i>
<i>in.</i>	<i>lb.</i>	<i>lb.</i>
1/2	0.885	0.891
3/4	1.253	1.262
1	1.810	1.825
1 1/4	2.559	2.581
1 1/2	3.189	3.215
2	4.053	4.093
2 1/2	5.646	5.705
3	6.651	6.741

19. All lead service pipes are to be solid drawn, and of not less than the following weights:

- 3/4 in. internal diameter, 5 lb. per yard (lineal).
- 1/2 in. internal diameter, 7 lb. per yard (lineal),
- 1/2 in. internal diameter, 11 lb. per yard (lineal),
- 1 in. internal diameter, 15 lb. per yard (lineal).
- 1 1/2 in. internal diameter, 22 lb. per yard (lineal),
- 2 in. internal diameter, 25 lb. per yard (lineal).

20. Cast iron pipes are to be substantially jointed with lead and yarn ; wrought iron pipes are to have screwed joints and sockets, and lead pipes are to have solder wiped joints.

21. (1) Every service pipe or distributing pipe of copper connected by means of screw joints must comply with the requirements of British Standard 61 : Part I : 1947 for copper lubes (heavy gauge) for general purposes, and every screw thread used in connexion with such Joints must comply with the requirements of British Standard 61 : Part 2 : 1946 for screw threads for copper tubes.

(2) Copper alloy pipe fittings and copper alloy three-piece unions for copper pipes screwed in accordance with the requirements of Table 1 of British Standard 61 : Part 2 : 1946 must comply with the requirements of British Standard 99 : 1922 or British Standard 66 : 1914, as the case may be.

(3) Cast copper alloy pipe fittings for copper pipes screwed in accordance with the requirements of Table 4 of British Standard 61 : Part 2 : 1946 must comply with relevant requirements of British Standard 143 : 193H or British Standard 1256 : 1945 for malleable cast iron and cast copper alloy pipe fittings.

22. (1) Every service pipe or distributing pipe of copper to be connected by means of compression fittings or capillary fittings or by bronze or autogenous welding must comply with the requirements of—

(a) British Standard 1386 : 1947 for copper tubes to be buried underground, if such pipe is to be laid under the ground ; or

(b) British Standard 659 : 1944 for light gauge copper lubes, if such pipe is to be laid above the ground.

(2) Every capillary fitting or compression fitting referred to in paragraph (1) must comply with the requirements of British Standard H64 : 1945 for capillary fillings and compression fittings of copper or copper alloy for use with light gauge copper tubes, and where any such compression fitting is on any pipe to be laid under the ground it must be of Type B.

23. All draw-off taps are to be of a pattern known as " screwdown ", or such other pattern as may be approved by the Municipal Council.

24. Every cistern to which water is supplied from the waterworks is to be provided with an " equilibrium " ball valve of approved pattern, and the ball valve is to be so adjusted as to close the supply when the water level in the cistern is two inches below the edge or overflow if there be one.

25. The inlet or supply pipe to every cistern shall be situated above the water level of such cistern.

26. The overflow pipes of all cisterns are to be brought to the outside of the building, and shall terminate in a conspicuous position, so that any leakage may be easily detected.

No overflow from any cistern shall on any account be connected with any drain or sewer, or with the waste pipe of any bath, sink, or any other sanitary appliance, or with the overflow from any other cistern. Each cistern shall have a separate overflow pipe.

27. All water-closets are to be provided with automatic waste-preventing flush tanks of a pattern approved by the Municipal Council, and under no circumstances shall the service be in direct communication with any water-closet pan, latrine, privy, or urinal. In every such case a cistern or tank shall be interposed, so as to prevent the possibility of any return of foul liquid or gas to the service or mains.

28. The outlet of every draw-off tap shall be in some open and conspicuous place, so that leakage may be easily detected, and in no case shall the outlet be below the top water level in any cistern, tank, or other vessel into which the tap delivers.

29. No service pipe shall be directly connected with any boiler, condenser, or other mechanical appliance without the express sanction of the Municipal Council.

30. The inlet of every bath, lavatory, basin, or sink must be separated and distinct from the outlet, and the inlet must be situated at the top or above such bath, lavatory, basin, or sink.

31. Water may be supplied for other than domestic purposes either by meter or otherwise at the discretion of Municipal Council, but as a rule such supplies should be by meter.

32. Water supplied to premises occupied wholly or in part for the following purposes shall be considered as supplied for other than domestic purposes, namely :—

(a) for the purposes of conducting or carrying on any trade or manufactory in which water is used ;

(b) for the purposes of hotels, of restaurants or of lodging-houses, or of private boarding-houses other than school boarding-houses, educational hostels, religious hostels and refreshment rooms, and restaurants not open to the general public;

(c) for public bathing places;

(d) for keeping horses, cattle, or vehicles for sale or hire ; and

(e) for any business in which water is used.

33. All water supplied for the following purposes shall be considered as supplied for other than domestic purposes, namely:—

- (a) for swimming baths not used in connexion with any business ;
- (b) for fountains or hydraulic motors not used in connexion with any trade;
- (c) for watering gardens or compounds, where special appliances or connections are fixed permanently or temporarily to any service pipe or main for the purpose ;
- (d) for building or road-making or road-repairing purposes other than Municipal roads ;
- (e) for shipping.

34. (1) The prices of water supplied by meter in respect of premises paying consolidated rates or a fixed sum in lieu of such rates shall be as follows:—

(a) to premises occupied wholly or in part—

- (i) for the purposes of conducting or carrying on any trade or manufactory,
- (ii) for the purposes of a hotel, restaurant, lodging-house or private boarding house,
- (iii) as a public bathing place,
- (iv) for keeping horses, cattle, or vehicles for sale or hire,
- (v) for the purpose of any other business in which water is used,

at the rate of Rs. 1.10 per cubic metre or Rs. 5 per 1,000 gallons ;

(b) to premises upon which water is used for—

- (i) swimming baths not used in connexion with any business, 55 cents per cubic metre or Rs. 2.50 per 1,000 gallons.
- (ii) fountains and hydraulic motors not used in connexion with any trade, 55 cents per cubic metre or Rs. 2.50 per 1,000 gallons,
- (iii) building and road-making and road-repairing purposes, Rs. 1.10 per cubic metre or Rs. 5 per 1,000 gallons;

(c) to premises wholly occupied for residential purposes and upon which water is used for watering gardens or compounds, Rs. 1.10 per cubic metre or Rs. 5 per 1,000 gallons, for any quantity used in excess of that allowed free as follows :—

	<i>Quantity of water allowed free of charge per quarter</i>	
	<i>Cu. metres</i>	<i>Gallons</i>
(i) premises with an annual value less than Rs. 2,000	150	33,000
(ii) premises with an annual value of Rs. 2,000 and under Rs. 3,000	180	39,600
(iii) premises with an annual value of Rs. 3,000 and under Rs. 4,000	200	44,000
(iv) premises with an annual value of Rs. 4,000 and under Rs. 6,000	220	48,400
(v) premises with an annual value of Rs. 6,000 and under Rs. 8,000	270	59,400
(vi) premises with an annual value of Rs. 8,000 and under Rs. 10,000	340	74,800
(vii) premises with an annual value of Rs. 10,000 and over	450	99,000;

(d) for water supplied to premises, occupied wholly or in part, for domestic purposes and used through an external tap for horses or cattle or for washing vehicles, 55 cents per cubic metre or Rs. 2.50 per 1,000 gallons.

(2) The price of water supplied by meter for shipping shall be as follows :—

(a) where the water is supplied to floating craft, other than water barges, Rs. 1.65 per cubic metre or Rs. 7.50 per 1,000 gallons;

(b) where the water is supplied to water barges, Rs. 1.32 per cubic metre or Rs. 6 per 1,000 gallons.

(3) For the purposes of paragraphs (1) and (2), any outstanding fraction of 5 cubic metres or any quantity which falls short of 5 cubic metres shall be reckoned as 5 cubic metres or if the consumption is measured by the gallon any outstanding fraction of 1,000 gallons or any quantity which falls short of 1,000 gallons shall be reckoned as 1,000 gallons.

35. In all cases in which water is supplied in respect of premises paying consolidated- rates or a fixed sum in lieu of such rates for the following purposes and not measured by meter, the following charges shall be paid in advance to the Municipal Council:—

(1) For water supplied to premises not less than a quarter of an acre in extent, with gardens or compounds where no special tap or appliance is provided for watering gardens or compounds :—

	<i>Per Quarter Rs. c.</i>	<i>Per Annum Rs. c.</i>
First half acre or part thereof	22 50	90 0
Every quarter acre or part thereof in addition to the first half acre	750	30 0

(2) For water supplied to premises where horses, cattle, or vehicles are kept for sale or hire:

	<i>Per Mensem Rs. c.</i>
For each carriage or motor	5 0
For each jinricksha	1 25
For horse or mule	4 0
For each donkey	1 75
For each bullock	1 75
For each buggy	1 25

(3) Charges for horses, cattle, or vehicles kept for sale or hire, but not specified above, shall be determined by the Municipal Council at rates proportionate to those specified.

(4) For water supplied to premises where building operations are in progress—

(a) in the case of any extension, renovation or alteration in respect of any verandah, room or other enclosed or covered structure or in respect of any storeyed structure or basement to an existing structure, one cent for each unit of ninety square centimetre or ten cents for each square foot of the area computed from the outer perimeter, of such verandah, room or other enclosed or covered structure or storeyed structure (in respect of each storey) or basement, as the case may be, and

(b) in the case of any other extension, renovation or alteration, one cent for each unit of five thousand cubic centimetres or five cents for each cubic foot of the work concerned :

Provided, however, that where the premises in respect of which such extension, renovation or alteration is carried out is unoccupied, and where the cost for the supply to such premises of water computed in the aforesaid manner is likely to exceed fifteen rupees, water shall be supplied to such premises by meter at [he rate of one rupee and ten cents per cubic metre or five rupees for one thousand gallons.

(5) For water supplied to eating-houses, bakeries, and other premises where small quantities of water are used for other than domestic purposes, the Municipal Council may assess a charge in each case based upon the probable quantity of water used.

(6) For water supplied to public bathing places : For each tub kept on the premises (the capacity of any tub must not exceed 500 litres or 110 gallons) Rs. 70 per quarter.

(7) For water supplied for domestic purposes and used through an external tap for washing vehicles—

	<i>If a hose pipe or similar apparatus is used in connection with the external tap</i>		<i>If a hose pipe or similar apparatus is not used in connection with the external tap</i>	
	<i>per mensem Rs. c.</i>	<i>per annum Rs. c.</i>	<i>per mensem Rs. c.</i>	<i>per annum Rs. c.</i>
(a) for one vehicle	50	..	60 0 - - 3 75	..
(b) for each vehicle in excess of one	375	..	45 0 . . 2 50	..
				300

36. In the case of private boarding-houses other than school boarding-houses or educational or religious hostels, or in the case of houses taking in paying guests and paying consolidated rates, or a fixed sum in lieu of such rates, the Municipal Council may supply water at the rate of Rs- 2,50 per head per month on the average number of boarders or paying guests lodging at each such house during the month.

37. In the case of water supplied for purposes other than those specified above or in respect of premises not paying consolidated rates or a fixed sum in lieu of such rates, the Municipal Council may make such charges in respect thereof as may, from time to time, be fixed by a resolution of the Council, provided no existing rights and privileges are thereby interfered with.

38. In case any special fittings, constructions, appliances, or arrangements of any kind shall have been allowed for the supply of water for other than domestic purposes (such as garden taps, tanks, hose, Ac.), the owner shall, whenever a change of occupiers occurs, either himself pay the charges previously agreed upon, or procure their payment by the new occupier, or remove at his own expense the said special fittings, constructions, appliances, or arrangements to the satisfaction of the Waterworks Engineer.

39- All meters for measuring the supply of water from the waterworks to any premises shall be supplied by the Council and fixed by the Waterworks Engineer. and shall remain the property of the Municipal Council,

40. The cost inclusive of materials other than the meter and of labour and supervision, of fixing meters, other than meters fixed by the Waterworks Engineer for ascertaining the consumption of water used on the premises mentioned in regulation 35 (5), shall be paid in advance by the owner or occupier of the premises to which the water service is laid.

41. All meters shall be maintained by the Municipal Council, and all repairs to meters, unless the damage is caused wilfully or negligently, shall be made by the said Council free of cost to the consumer: but in the event of damage being wilfully or negligently caused, the owner or occupier of the premises to which the water service is laid shall pay the cost of repair or renewal of the meter as the said Council may direct.

42. The following rents shall be paid to the Municipal Council quarterly and in advance for the use of meters for one quarter or any part of a quarter; such quarters shall be considered to commence on the first day of January, the first day of April, the first day of July, and the first day of October:—

10 inch meter	Rs. 250	for a quarter or part of a quarter
8 inch meter	Rs. 220	for a quarter or part of a quarter
6 inch meter	Rs. 150	for a quarter or part of a quarter
4 inch meter	Rs. 140	for a quarter or part of a quarter
3 inch meter	Rs. 90	for a quarter or part of a quarter
2 inch meter	Rs. 50	for a quarter or part of a quarter
1 1/2 inch meter	Rs. 36	for a quarter or part of a quarter
1 inch meter	Rs. 20	for a quarter or part of a quarter
3/4inch meter	Rs- 16	for a quarter or part of a quarter
1/2 inch meter	Rs. 14	for a quarter or part of a quarter
1/4 inch meter	Rs. 6	for a quarter or part of a quarter

In the case of a meter the size of which is expressed in metric units the rent shall be calculated at the above rates on the basis that each 20 millimetres is equal to 1 inch. Where the size of a meter when converted to inches as aforesaid is not equivalent to any size of meter specified above, rent shall be calculated at the rate payable in respect of that size of meter specified above which is immediately larger than the size when so converted.

43. Meters shall be read at such times as the Municipal Council may direct, not less frequently than three times a quarter. Whenever a meter is read, a memorandum of the reading shall be left at the premises supplied through it, addressed :— " The occupier ".

44. For the purpose of calculating the quarterly consumption the difference between two readings of the meter shall be taken. The first reading may be that observed on any day not more than ten days before or after the calendar date of the commencement of the quarter, or in case of a newly fixed meter the first reading of the meter.

The second reading may be that taken on any day not more than ten days earlier or later than the calendar termination of the quarter, or if the meter is removed or the supply closed during the quarter, then the last reading shall be taken as the second reading for ascertaining the quarter's water consumption. If two or more meters have been in use during the quarter, then the quarter's consumption shall be the sum of the quantities indicated by the meters:

Provided always that the reading used as the last reading of any quarter shall be used as the first reading of the ensuing quarter.

45. If a meter be found to be out of order, or if it be removed for repair or alteration, the facts shall be noted on the memorandum mentioned in regulation 43. On fixing a new meter or refixing the old one, a second memorandum shall be left at the premises supplied through such meter.

The consumption for the time that the meter was out of order, or that the service was without a meter, shall be calculated according to the average rate of daily consumption that obtained during the period between any two successive readings whilst the meter was in good order immediately preceding the removal of the meter.

46. If the consumer doubts the accuracy of the meter which measures the water supplied to the premises occupied by him, then the meter shall on demand be tested by the Waterworks Engineer. The consumer or any person appointed by him may be present when the meter is tested. The result of the testing shall be binding both on the Waterworks Engineer and on the consumer, and the quantity of water indicated by the meter for the quarter as defined in regulation 44 shall be corrected according to the result of the test. If the meter be found to indicate correctly, or if it be found to indicate too little, then a fee of Rs. 40 shall be paid to the Municipal Council for testing by the person demanding the test. If the meter be found to indicate too much, then no fee shall be paid for testing.

47. The value of the amount of water consumed during the quarter shall be ascertained and calculated in accordance with the foregoing regulations.

48. (1) Where water for other than domestic purposes is supplied by meter an account of the amount due in respect of each quarter shall be rendered during the quarter following, in the form E in this Schedule.

(2) Where such water is not measured by meter, an account of the amount payable in respect of each quarter shall be rendered, in the aforesaid form E, in advance during the preceding quarter :

Provided that where the amount cannot be determined in advance, the consumer shall deposit by way of security such sum as the Council may by resolution prescribe.

(3) It shall be the duty of every consumer to pay the amount to the Council in full within 15 days of any account being so rendered.

49. In all cases in which a meter is fixed an account shall be rendered quarterly for the rent of such meter in advance. The account shall be in form F in this Schedule, and the amount thereof shall be paid to the Municipal Council in cash in full within fifteen days of the rendering of such account.

50. No water shall be drawn from the waterworks, except from public fountains and house services in the manner laid down in these regulations, without the written consent of the Waterworks Engineer, except in the case of fire.

51. All moneys paid under the provisions of these regulations shall be carried to the credit of the Waterworks " Meter Account ". and all expenditure by the Waterworks Engineer in carrying out the provisions of these regulations shall be chargeable to such account.

52. The forms prescribed by these regulations shall be subject to such modifications for the purpose of their adaptation to the circumstances as the Council, with the approval of the Minister may direct.

[Regulation 4.]

FORM A

AGREEMENT for a supply of water by meter for other than domestic purposes between (hereinafter styled the " owner "), on the one part, and the Municipal Council on the other part.

2. In consideration of being allowed a supply of water for other than domestic purposes, namely, for (a), (b) and (c), to the aforesaid premises the owner hereby agrees to abide by the conditions hereinafter set forth:—

- (a) that the water shall be supplied through a meter;
- (b) that the owner shall pay or cause to be paid the sum of Rupees a quarter in advance to the Municipal Council for the rent of the meter
- (c) that the owner shall pay or cause to be paid to the Colombo Municipal Council at the rate of per cubic metre*
Rupees for the quantity of water supplied during the
per thousand gallons
month. The first payment to be made on the first day of

3. If the rent of the meter or the charges for water are not paid to the Municipal Council within fifteen days from due date, the right to the use of the service shall be forfeited, and the Municipal Council may discontinue the supply.

4. The provisions of the Colombo Municipal Council Waterworks Ordinance and of the regulations made thereunder shall be taken as part of this agreement, and any regulations which may be made hereafter under any sections of the said Ordinance shall also be binding on the parties to this agreement.

5. The agreement may be determined by either party giving to the other party day's notice of his or its intention to determine the same. In the event of its being so determined, neither the owner nor the occupier of the premises shall be entitled to the use of the service until a fresh agreement shall have been made.

6. The owner shall give due notice whenever a change of occupiers is about to take place, and no occupier shall be entitled to the use of the service until he has agreed in writing to abide by the foregoing conditions.

Signed at Colombo, this day of 19.....

* [Delete whatever is inapplicable.]

Owner.

Waterworks Engineer, on behalf of the
Municipal Council.

Witnesses to signatures;

- (1).....
- (2)

I also agree to abide by the terms of the foregoing agreement.

Signed at Colombo, this day of , 19.....

Occupier.

Witnesses to signature;

- (1).....
- (2)

[Regulation 7.]

FORM B

Municipal Council Office,
Colombo, 19.

Notice to alter Defective Service

To the owner or occupier of house No. Street.

Take notice that the service to the above-mentioned premises having on inspection been found to be defective, you are requested to take steps to carry out the alterations or repairs set forth in the accompanying memorandum, which I hereby certify to be necessary. Should you fail to carry out such alterations and repairs withindays after the receipt of this notice, the service will be discontinued from the Waterworks, and will not be reconnected until it is renewed, altered, or repaired to my satisfaction.

(Signed).....
Waterworks Engineer.

COLOMBO WATERWORKS

[Cap.542

[Regulation 10.]

FORM C

Notice of intention to construct..... service, or to alter or extend or clean any existing service.

No.

To the Waterworks Engineer, Colombo.

I hereby give notice of my intention to construct a service, *or* to alter or extend or clean the existing service, in the manner set forth in the schedule at foot, to

House No.....

Street:.....

Ward :.....,

Annual rental, if occupied by tenant: Rs.

Annual value, if occupied by owner: Rs.....

Size of existing service :

Number and size of existing taps :

The purpose for which water is required ;

Whether for domestic or other purposes :

The purpose for which the premises are occupied :

Particulars of proposed Works

Piping on Private Premises		Taps			Cisterns		
Length	Size	Number	Position	Size	Capacity	Position	Remarks

Signature of Owner:—•—

Signature of Occupier:—.

Address of Owner :—-.-••

[Regulation 12.]

FORM D

Municipal Council Office,
Colombo..... 19.

No.

In account with the Municipal Council.

Date	Description of Works	Rs.	c.
	Street		
	To labour and supervision in connexion with above		
	Total..		
	Amount deposited		

(Signed).....
Waterworks Engineer.

COLOMBO WATERWORKS

Form E

[Regulation 48.]

Municipal Council Office,
Colombo,..... 19

No.

In account with the Municipal Council of Colombo for water supplied to No.
during the quarter ending

Street,

Reference No.	Water Account	Rs.	c-
	per cubic metre		
	per 1.000 gallons Water supplied for other than domestic purposes not measured		
	Amount due		

Waterworks Engineer.

/V.fi.—I have to call upon you to pay the above amount at the office of the Colombo Municipal Council within fifteen days of the above date, in accordance with the Colombo Municipal Council Waterworks Ordinance.

Form F

[Regulation 49.]

Municipal Council Office,
Colombo,..... 19

No.

In account with the Municipal Council for rent of meter fixed at No.
quarter ending.

-Street, for

Meter Account

Reference No.		Rs.	
	Amount		

Waterworks Engineer.

N.B.—I have to call upon you to pay the above amount at the office of the Municipal Council within fifteen days of the above date, in accordance with the Colombo Municipal Council Waterworks Ordinance.

CHAPTER 399

COLOMBO YOUNG MEN'S BUDDHIST ASSOCIATION

Ordinance AN ORDINANCE TO INCORPORATE THE YOUNG MEN'S BUDDHIST ASSOCIATION,
 No. 11 of 1927, COLOMBO
 Act
 No. 20 of 1957.

[29th September. 1927.]

Short title. 1. This Ordinance may be cited as the Young Men's Buddhist Association, Colombo, Ordinance. [§ 3,20 of 1957-]

Incorporation of the Young Men's Buddhist Association, Colombo. 2. From and after the passing of this Ordinance, the president, vice-presidents, and members of the committee of management for the time being of the Young Men's Buddhist Association, Colombo, or shall hereafter be admitted members of the corporation hereby constituted, shall be and become a corporation with continuance for ever under the style and name of "The Young Men's Buddhist Association, Colombo ", and by that name shall and may sue and be sued in all courts, with full power and authority to have and use a common seal and alter the same at their pleasure.

Objects of the Corporation. [§ 2, 20 of 1957.] 3. The objects of the corporation shall be—

- (a) to provide facilities for, and to foster, the study and the propagation of the Buddha Dhamma,
- (b) to encourage the practical observance of the Buddha Dhamma,
- (c) to promote unity and co-operation among the Buddhists,
- (d) to advance the moral, cultural, physical and social welfare of the members, and
- (e) to promote the interests of Buddhism.

Board of management, 4. (1) The affairs of the corporation shall, subject to the rules in force for the time being of the corporation as hereinafter

provided, be administered by a board of management consisting of the president, five vice-presidents, the honorary general secretary, and honorary treasurer respectively of the corporation and not less than seventeen other members, to be elected respectively in accordance with rules for the time being of the corporation.

(2) All members of the corporation shall be subject to the rules in force for the time being of the corporation.

(3) The first board of management shall consist of D. B. Jayatilaka, Esq., M.A., M.L.C., President; W. A. de Silva, Esq., J.P., M.L.C.; Dr. C. A. Hewavitarne, M.R.C.S.; D. C. Senanayake, Esq.; A. E. de Silva, Esq., B.A.; D. S. Senanayake, Esq., M.L.C., Vice-Presidents; C. Victor Perera, Esq., Honorary General Secretary; T. W. Gunawardene, Esq., J.P., Mudaliyar, Honorary Treasurer; Dr. D. B. Perera, Chas. Dias, Esq., Proctor; N. J. V. Cooray, Esq., Proctor; H. A. de Abrew, Esq.; J. D. A. Abeywickrama, Esq.; S. B. Ranasinha, Esq.; R. S. S. Gunawardana, Esq., B.A., Advocate; H. Guneratna, Esq., Mudaliyar; J. N. Jinendradasa, Esq.; R. Hewavitarne, Esq.; D. N. W. de Silva, Esq.; Thomas Rodrigo, Esq., Mudaliyar; W. E. Bastian, Esq.; V. S. Nanayakkara, Esq.; L. A. Jayasekara, Esq.; D. C. Abeygunawardana, Esq., and D. N. Hapugala, Esq.

5. It shall be lawful for the corporation from time to time at any general meeting of the members, and by a majority of votes to make rules for the admission, withdrawal, or expulsion of members; for the conduct of the duties of the board of management and of the various officers, agents, and servants of the corporation; for the procedure in the transaction of business; and otherwise generally for the management [§ 3,20 of 1957-]

Power to make rules.

of the affairs of the corporation and the accomplishment of its objects. Such rules when made may, at a like meeting, be altered, added to, amended, or cancelled, subject, however, to the requirements of section 7.

contributions payable to the said Young Men's Buddhist Association, Colombo, shall be paid to the said corporation for the purposes of this Ordinance.

Rules in the Schedule* to be the rules of the corporation.

6. Subject to the provisions in section 5 contained, the rules set forth in the Schedule* shall for all purposes be the rules of the corporation:

10. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of two of the members of the board of management who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

How the seal of the corporation is to be affixed. [3, 20 of 1957.]

Provided, however, that nothing in this section contained shall be held or construed to prevent the corporation at all times hereafter from making fresh rules, or from altering, amending, adding to, or cancelling any of the rules in the Schedule* or to be hereafter made by the corporation.

11. The corporation shall be able and capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the corporation for the purposes of this Ordinance and subject to the rules for the time being of the said corporation, with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Corporation may hold property, movable and immovable

Procedure for amendment of rules.

7. No rule in the Schedule*, nor any rule hereafter passed at a general meeting, shall be altered, added to, amended, or cancelled, except by a vote of two-thirds of the members present at a general meeting of the association, provided that such amendment shall have been previously approved by the board of management.

12. (1) There shall be a board of governors consisting of seven persons.

Board of governors to control disposal of property of the corporation. [§ 5, 20 of 1957.]

[§ 3, 20 of 1957.]

Property vested in corporation.

8. On the coming into operation of this Ordinance all and every the property belonging to the said Young Men's Buddhist Association, Colombo, whether held in the name of the said Young Men's Buddhist Association, Colombo, or in the name or in the names of any person or persons in trust for the said Young Men's Buddhist Association, Colombo, shall be and the same are hereby vested in the corporation hereby constituted, and the same, together with all after-acquired property, both movable and immovable, and all subscriptions, contributions, donations, amounts of loan, and advances received or to be received, shall be held by the said corporation for the purposes of this Ordinance and subject to the rules in force for the time being of the said corporation.

(2) The first members of the board of governors shall be elected at a general meeting of the corporation, and, where any vacancy occurs among the members of that board thereafter, the remaining members of that board shall fill such vacancy by electing a fit and proper person as a member of that board.

(3) No person shall be elected as a member of the board of governors if he—

- (a) is not a member of the corporation,
- (b) is not a Buddhist,
- (c) is less than forty years of age,
- (d) is a person who, having been declared an insolvent under any law in force in Sri Lanka, is an undischarged insolvent,
- (e) is of unsound mind, or

Debts due by and payable to the association.

9. All debts and liabilities of the said Young Men's Buddhist Association, Colombo, existing at the time of the coming into operation of this Ordinance shall be paid by the corporation hereby constituted, and all debts due to and subscriptions and

* Schedule omitted.—Private enactment.

(f) is a person who has been convicted by any court of an offence involving moral turpitude.

(4) A member of the board of governors shall be deemed to vacate office, if he—

(a) is of unsound mind,

(b) is absent from three consecutive meetings of such board without the prior permission of such board,

(c) is a person who, having been declared an insolvent under any law in force in Sri Lanka, is an undischarged insolvent, or

(d) is convicted by any court of an offence involving moral turpitude.

(5) A member of the board of governors may resign office by letter addressed to such board.

(6) No act of the board of management of the corporation shall be valid or effective for the purpose of transferring any rights in the property or funds of the corporation or

for creating any liability or claim against the corporation unless such act has been previously authorized by a resolution passed by a majority of the members of the board of governors present at a meeting of that board:

Provided that no such authorization shall be necessary in the case of any of the following:—

(a) lease of any immovable property for a period not exceeding one year;

(b) disposal of any movable property of a value not exceeding fifty thousand rupees;

(c) any expenditure of not more than fifty thousand rupees during any financial year.

13. Nothing in this Ordinance contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Ordinance and those claiming by, from, or under them.

Saving of the rights of the Republic and others. [§ 4, 20 of 1957.]

CHAPTER 446

COLOMBO YOUNG MEN'S CHRISTIAN ASSOCIATION

Ordinances AN ORDINANCE TO INCORPORATE THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF
 A[^]. 22 of 1920, COLOMBO.
 13 of 1921.

[7th October, 1920.]

Short title. 1. This Ordinance may be cited as the Young Men's Christian Association of Colombo Ordinance. directors, to be elected respectively in accordance with the rules for the time being of the corporation,

Incorporation of Young Men's Christian Association of Colombo. 2. From and after the passing of this Ordinance, the president, vice-president, and members of the board of directors for the time being of the Young Men's Christian Association of Colombo, and such and so many persons as now are members of the said Young Men's Christian Association of Colombo or shall hereafter be admitted members of the corporation hereby constituted, shall be and become a corporation with continuance for ever under the style and name of " The Young Men's Christian Association of Colombo ", and by that name shall and may sue and be sued in all courts, with full power and authority to have and use a common seal and to change and alter the same at their pleasure. (2) All members of the corporation shall be subject to the rules in force for the time being of the corporation. (3) The first board of directors shall consist of H. L. de Mel, Esq., C.B.E., J.P., President; W. A. Cole, Esq., Vice-President; B. W. Leefe, Esq., Honorary Treasurer; F. B. Ekanayake, Esq., Recording Secretary; Hon. Sir Anton Bertram, Kt., K.C.; G. S. Schneider, Esq., K.C.; M. J. Cary, Esq., J.P., U.P.M.; Dr. Richard de Silva, M.R.C.S.; E. B. Denham, Esq.; C. Brooke Elliot, Esq.; C. R. Jansz, Esq.; S. J. C. Kadirgamar, Esq.; Rev. W. J. Noble; J. A. Rode, Esq.; Wm. Wadsworth, Esq., B.A; and G. A. WUle, Esq.

General objects of the corporation. 3. The general objects for which the corporation is constituted are hereby declared to be to promote the spiritual, intellectual, social, and physical welfare of the young men of Colombo, including the promotion among them of science and literature, their instruction, the diffusion amongst them of useful knowledge, and the foundation and maintenance of libraries and reading rooms, gymnasia, and other features for general use among the members. 5. It shall be lawful for the corporation from time to time, at any general meeting of the members and by a majority of votes, to make rules for the admission, withdrawal, or expulsion of members; for the imposition of fines and forfeitures for breaches of rules; for the conduct of the duties of the board of directors and of the various officers, agents, and servants of the corporation; for the procedure in the transaction of business; and otherwise generally for the management of the affairs of the corporation and the accomplishment of its objects. Such rules when made may, at a like meeting, be altered, added to, amended, or cancelled, subject, however, to the requirements of section 7. Power to make rules-

Board of directors. 4. (1) The affairs of the corporation shall, subject to the rules in force for the time being of the corporation as hereinafter provided, be administered by a board of directors consisting of the president and the vice-president respectively of the corporation and not less than ten other

The rules in Schedule* to be the rules of the corporation.

6. Subject to the provisions in section 5 contained, the rules set forth in the Schedule* shall for all purposes be the rules of the corporation:

Provided, however, that nothing in this section contained shall be held or construed to prevent the corporation at all times hereafter from making fresh rules, or from altering, amending, adding to, or cancelling any of the rules in the Schedule* or to be hereafter made by the corporation.

Amendment of rules.

7. No rule in the Schedule*, nor any rule hereafter passed at a general meeting, and no decision come to by the corporation in general meeting, shall be altered, added to, amended, or cancelled, except by a majority of the members present and voting at any subsequent general meeting.

Property vested in corporation.

8. On the coming into operation of this Ordinance all and every the property belonging to the said Young Men's Christian Association of Colombo, whether held in the name of the said Young Men's Christian Association of Colombo or in the name or names of any person or persons in trust for the said Young Men's Christian Association of Colombo, shall be and the same are hereby vested in the corporation hereby constituted, and the same, together with all after-acquired property, both movable and immovable, and all subscriptions, contributions, donations, fines, amounts of loan, and advance received or to be received, shall be held by the said corporation for the purposes of this Ordinance, and subject to the rules in force for the time being of the said corporation.

9. All debts and liabilities of the said Young Men's Christian Association of Colombo existing at the time of the coming into operation of this Ordinance shall be paid by the corporation hereby constituted, and all debts due to, and subscriptions, contributions, and fines payable to, the said Young Men's Christian Association of Colombo shall be paid to the said corporation for the purposes of this Ordinance.

Debts due by and payable to the association.

10. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of two of the members of the board of directors, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

How the seal of the corporation is to be affixed.

11. The corporation shall be able and capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise, and all such property shall be held by the corporation for the purposes of this Ordinance, and subject to the rules for the time being of the said corporation, with full power to sell, mortgage, lease, exchange, or otherwise dispose of the same.

Corporation may hold property, movable and immovable.

12. Nothing in this Ordinance contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Ordinance, and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

* Schedule omitted.—Private enactment.

CHAPTER 447

COLOMBO YOUNG WOMEN'S CHRISTIAN ASSOCIATION

Ordinances AN ORDINANCE TO INCORPORATE THE YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF
 Nos. 23 of 1920, COLOMBO.
 14 of 1921.

[7th October, 1920.]

Short title. 1. This Ordinance may be cited as the Young Women's Christian Association of Colombo Ordinance.

Incorporation of Young Women's Christian Association of Colombo. 2. From and after the passing of this Ordinance the president, vice-president, and members of the board of management for the time being of the Young Women's Christian Association of Colombo, and such and so many persons as are now members of the said Young Women's Christian Association of Colombo or shall hereafter be admitted as members of the corporation hereby constituted, shall be and become a corporation with continuance for ever under the style and name of "The Young Women's Christian Association of Colombo", and by that name shall and may sue and be sued in all courts, with full power and authority to have and use a common seal and to change and alter the same at their pleasure.

General objects of the corporation. 3. The general objects for which the corporation is constituted are hereby declared to be to promote the spiritual, intellectual, social, and physical welfare of the young women of Colombo, including the promotion amongst them of science and literature, their instruction, the diffusion amongst them of useful knowledge and maintenance of libraries, reading rooms, rest rooms, and other features for general use among the members, and traveller's aid work for any young women passing through Colombo.

Board of management. 4. (1) The affairs of the corporation shall, subject to the rules for the time being of the corporation as hereinafter provided, be administered by a board of management consisting of the president and the vice-

presidents respectively of the corporation and not less than eight other members, to be elected respectively in accordance with the rules in force for the time being of the corporation.

(2) All members of the corporation shall be subject to the rules in force for the time being of the corporation.

(3) The first board of management shall consist of Lady Bertram, C.B.E.; Mrs. W. A. Cole; Mrs. L. W. A. de Soysa; Mrs. Napier-Clavering; Miss E. van Geysel; Mrs. M. von Possner; Mrs. Murray G. Brooks; Mrs. J. Lochore; Mrs. M. J. Cary; Miss Laura von Possner; Mrs. John Walker; Mrs. H. P. Beling; Mrs. E. L. F. de Soysa.

5. It shall be lawful for the corporation Power to make from time to time, at any general meeting of rules the members, and by a majority of votes, to make rules for the admission, withdrawal, or expulsion of members; for the imposition of fines and forfeitures for breaches of rules; for the conduct of the duties of the board of management, and of the various officers, agents and servants of the corporation; for the procedure in the transaction of business; and otherwise generally for the management of the affairs of the corporation and the accomplishment of its objects. Such rules when made may, at a like meeting, be altered, added to, amended, or cancelled, subject, however, to the requirements of section 7.

Cap.447] COLOMBO YOUNG WOMEN'S CHRISTIAN ASSOCIATION

The rules in Schedule* to be the rules of the corporation.

6. Subject to the provisions in section 5 contained, the rules set forth in the Schedule* shall for all purposes be the rules of the corporation:

Provided, however, that nothing in this section contained shall be held or construed to prevent the corporation at all times hereafter from making fresh rules, or from altering, amending, adding to, or cancelling any of the rules in the Schedule* or to be hereafter made by the corporation.

Amendment of rules.

7. No rule in the Schedule*, nor any rule hereafter passed at a general meeting, and no decision come to by the corporation in general meeting, shall be altered, added to, amended, or cancelled, except by a majority of the members present and voting at any subsequent general meeting.

Property vested in corporation.

8. On the coming into operation of this Ordinance all and every the property belonging to the said Young Women's Christian Association of Colombo, whether held in the name of the said Young Women's Christian Association of Colombo or in the name or names of any person or persons in trust for the said Young Women's Christian Association of Colombo, shall be and the same are hereby vested in the corporation hereby constituted, and the same, together with all after-acquired property, both movable and immovable, and all subscriptions, contributions, donations, fines, amounts of loan, and advance received or to be received, shall be held by the said corporation for the purposes of this Ordinance, and subject to the rules for the time being in force of the said corporation.

9. All debts and liabilities of the said Young Women's Christian Association of Colombo existing at the time of the coming into operation of this Ordinance shall be paid by the corporation hereby constituted, and all debts due to, and subscriptions, contributions, and fines payable to, the said Young Women's Christian Association of Colombo shall be paid to the said corporation for the purposes of this Ordinance.

Debts due by and payable to the association.

10. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of two of the members of the board of management, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

How the seal of the corporation is to be affixed.

11. The corporation shall be able and capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the corporation for the purposes of this Ordinance, and subject to the rules for the time being of the said corporation, with full power to sell, mortgage, lease, exchange, or otherwise dispose of the same.

Corporation may hold property, movable and immovable.

12. Nothing in this Ordinance contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Ordinance, and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

* Schedule omitted.—Private enactment.