

**LEGISLATIVE  
ENACTMENTS**  
(Consolidated 1980)  
Volume -2  
(D-H)

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CHAPTER 61

DANGEROUS ANIMALS

Ordinance No. 38 of 1921.

AN ORDINANCE TO MAKE PROVISION AGAINST INJURIES BY DANGEROUS ANIMALS.

[24th October. 1921.]

Short title.

1. This Ordinance may be cited as the Dangerous Animals Ordinance.

7. (1) If such person appears and shows procedure in cause, the Magistrate's Court shall take case of appearance. evidence in the matter.

Interpretation.

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

" animal " includes a wild animal, provided it is the property of any person ;

(2) If such court is satisfied that such an order would not be reasonable and proper, it shall refuse to make the same.

" owner " includes the person having control or charge of an animal.

(3) If the court is satisfied that the animal is dangerous and not kept under proper control, and that in the interests of the public safety it should be destroyed, the court may make an order for the destruction of such animal.

Magistrate may issue summons on owner of dangerous animal.

3. Whenever a Magistrate, on taking such evidence as he thinks fit, is satisfied that an animal is dangerous and not kept under proper control by its owner, such Magistrate may issue a summons to such owner in the form in the Schedule.

(4) (a) If the court is satisfied that the animal is dangerous, but that the owner thereof is ready and able to keep it under proper control, the court may order such owner to keep the animal under proper control, and may require him to enter into a bond for any sum not exceeding one thousand rupees, with or without sureties, to carry out the terms of such order.

Service of summons, order, or notice.

4. (1) The summons and any order or notice made or given under this Ordinance shall, if practicable, be served on the person against whom it is made or to whom it is to be given in manner provided for service of a summons by the Code of Criminal Procedure Act.

(b) In the event of an owner not carrying out the terms of such order, such bond may be ordered by the Magistrate to be forfeited and recovered in the manner and subject to the conditions provided for the forfeiture of bonds in the Code of Criminal Procedure Act, and an order may be made by the court at the same or some other time for the destruction of the animal.

Person to whom summons is directed may appear and show cause against order.

5. The person to whom such summons is directed may, within the time specified therein, appear in accordance with such summons and show cause against any order as is therein mentioned being made against him.

8. When an order for the destruction of a dangerous animal has been made under either of the last two preceding sections, the Magistrate's Court shall give notice of the same to the person against whom the order was made, and shall further inform him that if he does not perform the act directed by the order within a time specified in the notice, the court will proceed to take measures for carrying such order into execution. Procedure on order for destruction being made.

Consequence of failing to do so

6. If such person does not appear and show cause as required by the last preceding section, an order for the destruction of the animal shall be made by the court.

Consequence of disobedience to order

9. (1) If such act is not performed within the time specified in the notice issued under the last preceding section, the Magistrate's Court may cause it to be performed, and may recover the costs of performing it by the distress and sale of any movable property of such person within or without the local limits of the jurisdiction of such court. If such other property is without such limits, the order shall authorize its attachment and sale when endorsed by a Magistrate within the local limits, of whose jurisdiction the property to be attached is found.

(2) Any police or peace officer or any person authorized by the Magistrate and all persons acting under the directions of any such officer or person may do all things

which are necessary for the carrying out of the order, and for any such purpose may enter upon any premises and break down any doors, fences, or other obstacles necessary to enable him or them to seize or approach the animal with the object of carrying out such act as aforesaid.

(3) No suit shall lie in respect of anything done in good faith under this section.

10. An order for the destruction of an Appeal. animal made under the provisions of this Ordinance shall be subject to appeal in the manner and subject to the conditions laid down in the Code of Criminal Procedure Act.

**SCHEDULE**

**SUMMONS TO OWNER OF DANGEROUS ANIMAL**

[Section 3.]

In the Magistrate's Court of .....

To A. B. of.....

Whereas the undersigned Magistrate for ..... having taken evidence, is satisfied that a certain animal, to wit, a ..... of which you are the owner, is a dangerous animal, and is not kept under proper control :

You are hereby commanded to be and appear in person with your witnesses (if any) on ..... the .... day of ..... 19. ...., at ..... in the ..... noon, at the Magistrate's Court at ..... to show cause why an order should not be made for the destruction of the said animal.

(Signed).....  
Magistrate.

**CHAPTER 557**

**DISEASES AMONG LABOURERS**

*Ordinances* AN ORDINANCE TO PROVIDE FOR THE PREVENTION OF THE SPREAD OF DISEASES AMONG  
 Nos.10 of 1912, LABOURERS.  
 27 of 1921,  
*Act*  
 No. 12 of 1952.

[1st January, 1913.]

Short title. **1.** This Ordinance may be cited as the Diseases (Labourers) Ordinance.

Interpretation. **2.** In this Ordinance—

" disease " means any disease which may, from time to time, be notified by the Minister under this Ordinance ;

" district medical officer " means a duly qualified medical practitioner registered under the Medical Ordinance, and attached to a Government hospital or dispensary;

" labourer " includes *kangany* and female labourer, and any child or other relative of any labourer resident upon the same estate;

" prescribed " means prescribed by rules made under this Ordinance ;

" superintendent " means any person in the immediate charge of any estate.

Application of Ordinance. **3.** This Ordinance shall apply to all agricultural estates of which ten acres or more are cultivated :

Provided that in any case in which a provincial surgeon is satisfied that any disease in fact prevails upon an agricultural estate with a lesser area of cultivation, he may, by written notice under his hand addressed to the owner or superintendent of the estate, direct that the provisions of this Ordinance shall apply to such estate, and upon the service of such notice upon the owner or superintendent the said provisions shall apply accordingly;

Provided further that in any case in which the Minister is satisfied that the labourers employed by any Government department or by any employer of labour other than a superintendent are housed under such conditions that the provisions of this Ordinance are capable of application to their residential quarters, he may, by Order notified in the Gazette, apply the provisions of this Ordinance to the residential quarters of such labourers with such modifications as may be necessary for the purpose.

**4.** Where any superintendent has reason to believe that any disease prevails among the resident labourers of his estate, he shall give notice in writing in the prescribed manner to the district medical officer and request his assistance in the treatment of the disease.

**5.** Where a district medical officer receives a notice under section 4, or where he has otherwise reason to believe that any disease is prevalent upon an estate he may enter upon the estate and inspect all the labourers and the sanitary condition of the labourers' lines of the estate, and give such directions as he may consider necessary for the treatment of the disease.

**6.** In any such case the district medical officer may—

- (a) require any labourer to be removed to hospital;
- (b) require the superintendent to treat the labourers in the prescribed manner in such convenient batches as he may indicate ;

Notification by superintendent of prevalence of disease.

Inspection of infected estate by district medical officer.

Treatment of labourers on infected estate.

**DISEASES AMONG LABOURERS**

(c) by notice in writing require the superintendent to treat in the prescribed manner all the labourers of the estate,

and it shall be the duty of the superintendent to carry out all such requirements.

Exceptional measures where disease prevalent to aggravated extent.

7. (1) Where the Director of Health Services is satisfied that any disease prevails upon an estate to such an extent or under such conditions that it cannot be effectively treated under the provisions of section 6, he may direct a medical officer of his department to inspect the estate.

(2) In any such case the medical officer so authorized shall enter upon the estate and inspect the labourers, labourers' lines, latrines, bathing places, and water supply, and do all things necessary to enable him to report to the Director of Health Services as to the measures to be taken for the treatment of the disease upon the estate.

(3) The Director of Health Services upon receiving the said report may thereupon, by a notice in writing, require the superintendent to carry out such measures, not being measures provided for by section 9, as in the opinion of the Director of Health Services are necessary for the purpose aforesaid, and it shall thereupon become the duty of the superintendent to carry out all such measures accordingly:

Provided that where the expense involved by any such notice exceeds an amount of two rupees per cultivated acre of the estate, an appeal shall lie to the Minister.

Power of Minister to carry out such measure at expense of estate.

8. (1) If within three months from the date of the receipt of the said notice the superintendent shall not have carried out the measures required by the said notice to the satisfaction of the Director of Health Services, it shall be lawful for the Minister, on receiving a report to that effect from the Director of Health Services, to cause the said measures to be effectively carried out upon the estate.

(2) The cost of any such measures so carried out shall be a debt to the State recoverable from the owner of the estate, and shall constitute a charge on the estate.

(3) The sum so due shall be recoverable in the manner prescribed by Chapter V of the Medical Wants Ordinance.

9. (1) In any case in which any medical officer charged with the duty of the inspection of estates shall report that any set of labourers' lines is constructed in such a position or under such conditions that any disease prevalent or liable to become prevalent therein cannot be effectively controlled, and that the said set of labourers' lines is not capable of adaptation for its effective control, it shall be lawful for the Minister to condemn such set of labourers' lines, and to order its reconstruction to his satisfaction upon such site and under such conditions as shall be suitable for the purpose of the prevention of the spread of the disease, and it shall be the duty of the superintendent to carry out such order.

Power of Minister to condemn insanitary labourers' lines.

(2) If within three months of the communication of such order to the superintendent, or such further time as may be directed in the order, the superintendent shall not have complied therewith, it shall be lawful for the Minister to carry out the measures directed by such order, and the expenses thereof shall be a debt to the State recoverable from the owner of the estate, and shall constitute a charge upon the estate.

(3) The sum so due shall be recoverable in the manner prescribed by Chapter V of the Medical Wants Ordinance.

10. (1) A superintendent may require any labourer employed upon an estate, whether resident upon the estate or otherwise, to submit to such treatment as may be prescribed or otherwise lawfully directed under this Ordinance.

Superintendent may require labourers and others to submit to treatment.

(2) It shall be the duty of every such labourer, when so required by the superintendent, to attend at all reasonable times and places and to submit to such treatment.

11. It shall be the duty of a superintendent to notify the district medical officer if he has reason to believe that any disease prevails in the immediate vicinity of his estate.

Superintendent to notify medical officer.



## **DISEASES AMONG LABOURERS**

**[Cap.557**

Rules,

**12.** (1) The Director of Health Services, with the approval of the Minister, may make rules for the whole of Sri Lanka, or for any portion of Sri Lanka, for the treatment of diseases under this Ordinance, and for the sanitation of labourers' lines with a view to the prevention of the spread of diseases, and in particular for the following purposes:—

- (a) prescribing the location of labourers' lines, the manner of, and plans for their construction, and the materials to be used in their erection;

providing for the alteration, enlargement, or removal of labourers' lines not built according to the rules made under this section;

- (b) providing for such alteration, enlargement, or removal by order of the Director of Health Services when there is any contravention of any such rules, and for the recovery of the expenses thereof before the prescribed court;

providing for the inspection of labourers' lines and their surroundings, and for the protection of the water supply of such lines;

- (e) for the provision and regulation of latrines;
- (f) for the removal and disposition of excreta and line refuse;
- (g) for the provision of a surrounding area round each set of labourers' lines clear of vegetation;

- (h) for the drainage of labourers' lines and their surrounding area;

- (i) for the proper construction and drainage of bathing places;

- (j) for the provision of water supply.

(2) All such rules shall be laid as soon as conveniently may be before Parliament, and if a resolution is passed by Parliament within forty days of their being so laid praying that any rule shall be annulled, such rule shall thenceforth be void, but without prejudice to anything done thereunder.

**13.** There shall be submitted to the medical wants committee for consideration and advice all rules proposed to be made under the Ordinance.

Rules to be submitted to medical wants committee.

**14.** (1) Any person who without reasonable excuse, the proof whereof shall lie upon such person, shall—

Offences.

- (a) make default in the performance of any obligation imposed upon him by this Ordinance, or any rule or order made under this Ordinance ;

- (b) wilfully obstruct any medical officer or any person lawfully acting under his direction in discharge of the duties of such medical officer under this Ordinance, or any rule or order made under this Ordinance,

shall be guilty of an offence, and liable to a fine not exceeding five hundred rupees, or to imprisonment of either description not exceeding one month.

(2) Such fine shall be recoverable before a Magistrate, notwithstanding any limitation of his ordinary jurisdiction.

CHAPTER 488

DISABLED CEYLON MEN'S FUND

Ordinance  
No. 1 of 1925.

AN ORDINANCE TO PROVIDE FOR THE TRANSFER OF THE ASSETS AND LIABILITIES  
OF THE DISABLED CEYLON MEN'S FUND TO THE GOVERNMENT.

[11th February, 1925.]

Preamble.

Whereas by the Disabled Ceylon Men's Fund Ordinance, No. 31 of 1916, a corporation was established under the name of \*'The Disabled Ceylon Men's Fund " for the relief of duly qualified persons and their dependants as defined in the said Ordinance:

of such pensions and allowances at the rates in force at the times when such arrears became due.

(2) The Deputy Secretary to the Treasury shall continue to pay the aforesaid pensions from the Consolidated Fund.

And whereas the corporation have allotted certain pensions and allowances which have lately been paid at reduced rates:

(3) If any question arises as to the amount or duration of any pension or allowance or as to the amount of any arrears or as to the conditions on which it is payable or as to the identity of the person entitled thereto, the decision of the Minister in charge of the subject of Finance shall be final and conclusive.

And whereas the corporation desire and it is expedient that the payment of such pensions and allowances at the full rates should, as from the 1st day of October, 1924, be undertaken by the Government, and that all the assets of the corporation should be transferred to the Government, and that after such transfer the corporation should be dissolved :

(4) The said pensions and allowances shall be payable at the Treasury;

And whereas it is expedient that effect should be given to the said desire of the said corporation, but this cannot be done without the authority of the Legislative Council:

Provided that the Deputy Secretary to the Treasury may, if he thinks fit, permit any pension or allowance to be paid at any kachcheri or through a bank, or to be paid outside Sri Lanka at such rate of exchange as he shall from time to time prescribe.

Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows;—

(5) The Deputy Secretary to the Treasury may, from time to time, require proof to his satisfaction that any person entitled to a pension or allowance is still alive, and that no event has happened whereby the pension or allowance has ceased to be payable or whereby the amount thereof has become altered.

Short title.

1. This Ordinance may be cited as the Disabled Ceylon Men's Fund Ordinance.

Pensions to be paid out of general revenue.

2. (1) The Deputy Financial Secretary shall pay or cause to be paid out of general revenue as from the 1st day of October, 1924, the pensions and allowances already allotted by the corporation as before recited at the full rates thereof, and also any arrears

(6) Whenever a person entitled to a pension or allowance is an infant or under any disability, or whenever the Minister in charge of the subject of Finance considers that it is inexpedient that a pension or allowance should be paid direct to the person entitled thereto, the Deputy

Secretary to the Treasury may, from time to time, appoint and revoke the appointment of some fit and proper person to whom the pension or allowance shall be paid on such conditions as the Deputy Secretary to the Treasury shall think fit for the benefit of the person entitled thereto.

the Minister in charge of the subject of Finance may order that the payment of the whole or any part of such pension or allowance shall be discontinued.

Non-assignability of pensions.

**3.** No pension or allowance shall be assignable or be affected by any process of execution or sequestration, or vest in any receiver or in any trustee or assignee in bankruptcy or insolvency.

**6.** (1) The corporation shall, as soon as conveniently may be, at the expense of the Government, transfer or cause to be transferred to such person or persons as may be nominated for the purpose by the Minister in charge of the subject of Finance all property belonging to or held in trust for or to the order of the corporation :

Transfer of the corporation's assets to Government.

Forfeiture of pension.

**4.** If any person in receipt of a pension or allowance under this Ordinance is sentenced by a competent court to suffer death, or imprisonment for any period exceeding twelve months, the Minister in charge of the subject of Finance may, if he thinks fit, order that the payment of the whole or any part of the pension or allowance shall be discontinued either absolutely or for such period as the Minister in charge of the subject of Finance shall think fit.

Provided that the Minister in charge of the subject of Finance may, if he thinks fit, direct any such property to be sold by the corporation, and the net proceeds thereof to be paid into the Treasury.

(2) All property so transferred shall become part of the assets of Sri Lanka.

Power to reduce or discontinue a pension,

**5.** Whenever it is shown to the satisfaction of the Minister in charge of the subject of Finance—

**7.** Everything required to be done by the corporation for carrying this Ordinance into effect may be done by or by the direction of the standing committee holding office at the commencement of this Ordinance, and such standing committee shall continue in office until the corporation is dissolved.

Standing committee to continue in office.

- (a) that any pension or allowance payable under this Ordinance was allotted by the corporation in consequence of any mistake or misrepresentation of facts; or
- (b) that any such pension or allowance has by reason of any change in circumstances become unnecessary,

**8.** All outstanding expenses and liabilities properly incurred by the corporation shall be discharged out of general revenue.

Outstanding liabilities.

**9.** 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, or those claiming by, from, or under them.

Saving of rights of the Republic and others.

**CHAPTER 427**

**DHARMAVIJAYA FOUNDATION**

*Act* AN ACT TO INCORPORATE THE DHARMAVIJAYA FOUNDATION.  
 No. 62 of 1979.

[15th October, 1979.]

Short title. **1.** This Act may be cited as the Dharmavijaya Foundation (Incorporation) Act.

Incorporation of the Dharmavijaya Foundation. **2.** From and after the date of commencement of this Act, such and so many persons as now are members for the time being of the Dharmavijaya Foundation (hereinafter referred to as "the Foundation ") 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 Dharmavijaya Foundation" (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.** (1) The general objects of the Corporation shall be to promote the total development of man, both spiritually and physically, with the application of Buddhist principles to economic development and thereby establish a Dharmavijaya Samajaya.

(2) The Dharmavijaya Samajaya shall comprise of all persons who accept, and endeavour to act according to the principles set out hereunder:—

- (a) to be of service to the community ;
- (b) to practise one's religion and observe the ethical principles contained in the five precepts, namely—
  - (i) to abstain from the taking of life and to practise loving kindness to all living beings,
  - (ii) to abstain from taking what is not given and to practise generosity,

(iii) to abstain from immoderation in sensual pleasures and to practise self-restraint,

(iv) to abstain from speaking falsehoods, slandering, harsh speech and idle talk and to practise truthfulness, and

(v) to abstain from taking intoxicating drinks and to develop mindfulness;

(c) to be restrained in one's thought, word and deed;

(d) to avoid wrong means of livelihood including the five prohibited trades, to increase production, to conserve what is produced and to live within one's means;

(e) to observe noble practices ;

(f) to promote concord amongst all people, irrespective of race and religion;

(g) to contribute towards a savings scheme and a self-denial fund ; and

(h) to dedicate one's efforts towards the development of the nation.

**4.** (1) The Corporation shall have the power to do all things necessary for or conducive or incidental to the carrying out of the objects of the Corporation. Powers and functions of the Corporation.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Corporation shall have the following powers and functions:—

- (a) to receive or collect gifts, grants, donations, subsidies and

subscriptions, whether in cash or otherwise, from local or foreign sources;

- (b) to acquire by purchase, exchange, gift, devise or bequest or in any other manner and to hold and enjoy in perpetuity or for any lesser period or subject to any express trust or otherwise for the benefit or the furtherance of the objects of the Corporation, any property, movable or immovable of any kind or nature whatsoever;
- (c) to operate, open and close bank accounts, and to borrow or raise money, with or without security;
- (d) to sell, lease, mortgage, exchange or otherwise dispose of, any movable or immovable property belonging to or held by, the Corporation, subject to any trust attaching to such property;
- (e) to invest the funds vested in, or belonging to, the Corporation in adequate securities or in the purchase or acquisition of such lands, buildings, goods, chattels, or other property as may be proper or necessary for the purposes of the Corporation;
- (f) to erect or cause to be erected, any building or structure on any land belonging to, or held by, the Corporation; and
- (g) to make such investments as are necessary for the promotion of gainful and fuller employment in agriculture, arts and crafts, trade, commerce and industry.

Rules of the Corporation.

**5.** (1) The Corporation may, from time to time, at a meeting specially convened for the purpose and by a majority of votes, make rules for the management of the affairs of the Corporation and the accomplishment of its objects. In particular and without prejudice to the generality of the foregoing power, such rules may make provision in respect of all or any of the following matters:—

- (a) the admission, resignation and expulsion of members;

(b) the procedure to be followed in convening meetings of the Corporation and the transaction, of business at such meetings; and

(c) the conduct of the duties of the various officers, agents and servants 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 (1).

(3) The rules of the Foundation in force at the time of the coming into operation of this Act 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 Act.

(4) The members of the Corporation shall be subject to the rules of the Corporation.

**6.** All debts and liabilities of the Foundation existing at the time of the coming into operation of this Act shall be paid by the Corporation, and all debts due to, and subscriptions payable to, the Foundation shall be paid to the Corporation for the purposes of this Act.

Debts due by and payable to the Foundation.

**7.** The seal of the Corporation shall not be affixed to any instrument whatsoever except with the authority of the Corporation and in the presence of at least two of the members 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.

Seal of the Corporation.

**8.** No member of the Corporation shall for the purpose of discharging the debts and liabilities of the Corporation, be liable to make any contribution whatsoever.

Limit of liability on members 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 be transferred either to a designated society or to the Public Trustee and shall be utilised for objects similar to that of the Corporation.

Disposal of property of the Corporation left after the payments of debts upon dissolution of the Corporation.

Saving of the  
rights of the  
Republic and  
others.

**10.** Nothing in this Act contained shall  
prejudice or affect the rights of the  
Republic, or of any body politic or  
others.

corporate, or of any other persons, except  
such as are mentioned in this Act and those  
claiming by, from or under them.

**CHAPTER 568**

**DRIED MEAT**

*Ordinances*  
Nos 19 of 1908,  
1 of 1927,  
11 of 1941,  
*Act*  
No. 22 of 1955.

AN ORDINANCE TO RESTRICT THE TRAFFIC IN DRIED MEAT IN CERTAIN DISTRICTS IN ORDER TO CHECK THE WASTEFUL DESTRUCTION OF GAME.

[31st October. 1908.]

Short title. **1.** This Ordinance may be cited as the Dried Meat Ordinance. **\*5.** Any person who removes or attempts to remove dried meat in Penalty,

Interpretation. **2.** (1) Except where the context otherwise requires, the expression "dried meat" means the dried or salted flesh of any animal, but does not include dried or salted fish or any dried or salted meat which has been imported from beyond the seas. **5.** Any person who removes or attempts to remove dried meat in contravention of this Ordinance or any Order issued thereunder shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding fifty rupees, and, in default of payment, to imprisonment of either description for a term not exceeding three months; and on a second or subsequent conviction he shall be liable to a fine not exceeding one hundred rupees, and, in default of payment, to imprisonment of either description for a term not exceeding six months. Upon any conviction the dried meat in respect of which such conviction was had and all vessels containing the same, and every wagon, cart, boat, vessel, animal, or other conveyance used for or employed in the removal of the same, may be forfeited.

Burden of proof. **(2)** The onus of proving that any dried meat has been so imported shall in any proceedings under this Ordinance be on the accused.

Application of Ordinance. **3.** (1) The Minister may, from time to time, by Order declare that it shall be unlawful to remove dried meat from any administrative district or divisional Assistant Government Agent's division therein named (which administrative districts and divisional Assistant Government Agents' divisions are in this Ordinance referred to as "proclaimed areas"), except in accordance with any conditions which may be set forth in the said Order, which said conditions may include the payment of money to the Government for the privilege of removing dried meat.

**(2)** The Minister may, from time to time, vary, amend, or revoke any such Order.

Prohibition of removal of dried meat. **4.** It shall be unlawful for any person to remove dried meat in quantities exceeding fifteen pounds from any proclaimed area in contravention of an Order issued under section 3.

**6.** It shall be lawful for any Assistant Conservator of Forests or for any police officer not below the rank of a Sergeant, or for any other forest officer or grama seva niladhari who is authorized in writing by the Government Agent to carry out the provisions of this Ordinance, upon reasonable suspicion, to stop and examine any cart, carriage, boat, pack animal, or other means of conveyance for the purpose of ascertaining whether dried meat is contained therein or carried thereby; and if the person in charge of such cart, carriage, boat, pack animal, or other means of conveyance refuses to allow such officer to examine the same, or prevents or obstructs him from so doing, he shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding fifty rupees, **Power of certain officers to examine carts, &c.**

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

or in default of payment to imprisonment of either description for a term not exceeding three months. Where upon such examination any quantity of dried meat exceeding fifteen pounds in weight is found, such officer may seize such dried meat together with the vessel, cart, carriage, boat, pack animal, or other means whereby or -wherein the same is conveyed, and bring the same before the nearest Magistrate's Court to be dealt with according to law.

under this Ordinance may direct that a portion not exceeding one-half of the fine actually recovered, and also a like portion of the proceeds of the sale of any thing or animal forfeited as aforesaid, shall be paid to any person giving information which has led to the conviction.

Person found removing dried meat suspected to have been removed in contravention of the Ordinance may be charged.

7. Where any person is found removing dried meat in any quantity exceeding fifteen pounds in such circumstances as to give rise to reasonable suspicion that he has brought it from a proclaimed area in contravention of this Ordinance, he may be charged with removing dried meat in contravention of this Ordinance; and if the person so charged does not prove to the satisfaction of the Magistrate that he did not remove such dried meat in contravention of this Ordinance, and the Magistrate is satisfied that, having regard to the place where the dried meat was found and to all the circumstances of the case, there are reasonable grounds for believing that the person charged removed the dried meal in contravention of this Ordinance, such person may be convicted of an offence under section 4 of this Ordinance, and shall be liable to the penalty provided by section 5.

9. The Minister may by Order prohibit the exportation of dried meat during such period as may seem expedient, except in accordance with any conditions which may be set forth in the said Order, which said conditions may include the imposition of fees for the inspection of meat proposed to be exported, and may in like manner alter, amend, or revoke any such Order.

Power of Minister to prohibit exportation of dried meat,

After any such Order and during the period therein named, it shall be unlawful for any person to export dried meat in contravention of the said Order; and any person unlawfully exporting or attempting to export dried meat during such period shall be guilty of an offence, and shall be liable on conviction to simple or rigorous imprisonment for a term which may extend to six months, or to a fine not exceeding one hundred rupees, or to both, and the dried meat in respect of which such conviction was had and all receptacles containing the same shall be forfeited.

Reward to informer.

8. Any offence under this Ordinance may be inquired into, tried, and determined by the Magistrate's Court of the division in which the offence was committed wholly or in part, and such court shall have jurisdiction to award the maximum punishment prescribed therefor, and to declare and adjudge any dried meat, vessel, conveyance, animal, or thing liable to be confiscated under section 5 of this Ordinance forfeited, and to condemn the same, whatever may be the amount or value thereof, anything in the Code of Criminal Procedure Act to the contrary notwithstanding; and any Magistrate by whom any person is convicted of an offence

10. (1) Whenever the tenant of any land in the Kandyan provinces is bound, in respect of his tenure,\* to supply dried meat in any specified quantity, nothing in this Ordinance shall be taken to prevent such tenant from removing meal in such quantity as may be necessary to enable him to render such service.

Exception with regard to service tenures.

(2) Whenever, in any proceedings under this Ordinance, it is alleged by way of defence that any dried meat was removed for the purpose of rendering any such service as aforesaid, the burden of proving that the dried meat was removed bona fide for such purpose and in no larger quantity than was necessary therefor shall lie on the person alleging such defence.

\* Regarding the application of the Service Tenures Ordinance to Nindagama lands—See Sections 2 and 3 of the Nindagama Lands Act.



***DRIED MEAT***

**[Cap. 568**

Disallowance  
of Orders.

**11.** All Orders issued under this Ordinance shall as soon as conveniently may be, be laid on the table of Parliament, and may at any of the next three meetings of Parliament be disallowed by resolution of Parliament, and if so disallowed shall be annulled, but without prejudice to anything already done thereunder, and if not so disallowed shall be deemed to be valid.

CHAPTER 262

DEPARTMENT OF AGRICULTURE

Ordinances Nos. 37 of 1921, 17 of 1935. AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT AND ORGANIZATION OF A DEPARTMENT OF AGRICULTURE.

[17 th October. 1921.]

Short title. 1. This Ordinance may be cited as the Department of Agriculture Ordinance. Agriculture, with a Director and such other officers as may be duly appointed by Government at such salaries as may from time to time be fixed with the consent of Parliament.

Interpretation. 2. In this Ordinance, unless the context otherwise requires—

" agriculture " includes horticulture ;

" department" means the Department of Agriculture;

" Director" means the Director of Agriculture.

4. (1) The Minister may establish one or more Boards of Agriculture for the purpose of advising the Minister on matters affecting the agricultural industries of Sri Lanka. Establishment of one or more Boards of Agriculture.

Department of Agriculture. 3. There shall be a Government department to be styled the Department of Agriculture. (2) Any board so established shall be constituted in such manner as the Minister may from time to time determine.

**CHAPTER 571**

**DISEASES OF ANIMALS**

*Ordinances* AN ORDINANCE TO MAKE PROVISION WITH RESPECT TO CONTAGIOUS AND  
 Nos.25 of 1909, INFECTIOUS DISEASES OF CATTLE AND OTHER ANIMALS.  
 16 of 1912,  
 26 of 1921,  
 20 of 1922,  
 19 of 1923,  
 17 of 1930,  
 6 of 1935,  
 7 of 1939,  
 61 of 1939,  
 11 of 1941,  
 3 of 1946,  
 29 of 1947,  
*Act*  
 No. 33 of 1957.

[1st August, 1910.]

Short title. 1. This Ordinance may be cited as the Contagious Diseases (Animals) Ordinance. Sinhala and Tamil names specified in the Schedule,

Interpretation 2. In this Ordinance, unless the context otherwise requires—

" animal " means horses, mules, asses, sheep, swine, goats, and any other animals to which this Ordinance shall be made to apply by the Minister by Order published in the Gazette;

" carcase " means the carcase of any cattle or animal, and includes part of a carcase and the meat, bones, hide, skin, hoofs, horns, offal, or other part of any cattle or animals separately or otherwise, or any portion thereof;

" cattle " means bulls, cows, bullocks, buffaloes, heifers, steers, and calves;

" disease " means—

(a) in the case of cattle, murrain or rinderpest, foot-and-mouth disease, piroplasmosis, haemorrhagic septicaemia, pleuro-pneumonia, anthrax, tuberculosis, surra or any form of trypanosomiasis, and includes the diseases known by the

(b) in the case of other animals, foot-and-mouth disease, anthrax, glanders, farcy, epizootic lymphangitis, osteoporosis, surra or any form of trypanosomiasis, piroplasmosis, swine fever:

Provided that the Minister may, by Order published in the Gazette, extend the definition of disease so that the same shall comprise any other disease of cattle or of animals, in addition to the diseases mentioned in this section ;

" diseased " means affected with disease;

" fodder " means grass or other substance commonly used for food for cattle or animals;

"litter" means straw or other substance commonly used for bedding or otherwise for or about cattle or animals;

" owner " includes a part owner or hirer of any cattle or animal and any person who takes care of any cattle or animals on condition of receiving part of the produce thereof•

"suspected" means suspected on reasonable grounds of being diseased, and, when applied to cattle or animals, includes any cattle or animals which have been in contact with diseased cattle or animals, or have been in circumstances in which they were likely to become infected with disease.

3. Every person having in his possession or under his charge any diseased or suspected cattle or animals shall keep such cattle or animals separate from other cattle or animals, and shall with all practical speed give notice of the fact of the cattle or animals being diseased or suspected to the nearest grama seva niladhari or police officer or stock inspector or agricultural instructor or veterinary officer, who shall forthwith give information thereof to the Chief Government Veterinary Surgeon.

4. (1) Where it appears to the Chief Government Veterinary Surgeon that disease, whether of cattle or animals, exists or has within ten days existed in a cattle shed, field, chena, garden, tank, or other place, he shall forthwith make and sign a declaration thereof, and shall proclaim by beat of tom-tom or in such other manner as he may deem fit any area within which such cattle shed, field, chena, garden, tank, or other place is situated to be an infected area.

(2) Every such declaration shall specify the limits of such area and the date from which such declaration shall take effect.

(3) The Chief Government Veterinary Surgeon shall forthwith forward to the Minister a copy of any such declaration as aforesaid, and report all proceedings taken thereon.

(4) The Minister may, from time to time, if he thinks fit, on any evidence satisfactory to him, by Order published in the Gazette, revoke such declaration or curtail or extend the limits of an infected area as proclaimed by the Chief Government Veterinary Surgeon.

5. (1) Where an area has been proclaimed by the Chief Government Veterinary Surgeon as aforesaid, he may, if he thinks fit, at any time thereafter declare such area to be free from disease and no longer an infected area, and such declaration shall be proclaimed and published in the same manner as provided in subsections (1) and (2).

(2) It shall be lawful for the Minister, if he thinks fit, at any time to declare, by Order published in the Gazette, any particular portion or portions of any area declared by the Chief Government Veterinary Surgeon to be infected to be free from disease.

6. (1) For the purpose of checking the spread of any disease among cattle or animals, the Chief Government Veterinary Surgeon may, by means of a notice to be published as hereinafter provided, establish a belt or zone of country (hereinafter referred to as a "protective zone") adjoining any infected area of such width and extent as may appear expedient.

(2) Every such notice shall specify the limits of the protective zone and the date from which the same is established, and shall forthwith be published in the Gazette.

(3) The Chief Government Veterinary Surgeon shall also cause every notice under the foregoing subsection to be published within the protective zone by beat of tom-tom or in such other manner as he shall think fit.

(4) The Minister may at any time, by Order published in the Gazette, rescind the establishment of a protective zone or curtail or extend the limits thereof.

7. (1) It shall be lawful for the Chief Government Veterinary Surgeon to proclaim, by affixing notices of such proclamation on some conspicuous place at each end of any road or portion thereof, as well as by beat of tom-tom, or in such other manner as he may deem fit, that such road or portion thereof in an infected area or protective zone shall be closed to all cattle or animal traffic for the period specified in such notice; and upon such notice being

Power of Chief Government Veterinary Surgeon to declare infected area free from disease. [§ 5, 33 of 1957.]

Power of Minister to declare portion of infected area free from disease. [§ 5, 33 of 1957.]

Establishment of protective zones. [§ 6, 33 of 1957.]

[§ 6, 33 of 1957.]

[§ 6, 33 of 1957.]

Power to close roads to all cattle traffic. [§ 7, 33 of 1957.]

Notice of disease. [§ 3, 33 of 1957.]

[§ 3, 33 of 1957.]

[§ 3, 33 of 1957.]

Declaration by chief Government Veterinary Surgeon of existence of disease. [§ 4, 33 of 1957.]

[§ 4, 33 of 1957.]

Publication of declaration.

Report of proceedings to be forwarded to Minister. [§ 4, 33 of 1957.]

Powers of Minister with regard to Chief Government Veterinary Surgeon's declaration. [§ 4, 33 of 1957.]

issued no person shall take any cattle or animals along such road or portion thereof, whether for purposes of transport or otherwise, during such period as aforesaid :

Provided that no road or portion thereof shall be closed for a longer period than ten days without the sanction of the Minister.

(2) The Minister may, by Order published in the Gazette, cancel any notice issued by the Chief Government Veterinary Surgeon under this section.

[§ 7, 33 of 1957.]

Power to declare ports, &c.. infected with disease.

8. (1) The Minister may, by Order published in the Gazette, declare any port or place without or within Sri Lanka to be infected with disease, and such place shall, until such Order is in like manner revoked, be deemed a port or place in which disease is known to prevail.

(2) Whenever a vessel arrives at any port or place in Sri Lanka from any other port or place in or without Sri Lanka which has been declared to be infected, or having on board cattle or animals suffering from disease, or on board of which disease may have appeared in the course of the voyage, the principal officer of customs of such port or place of arrival may, if he shall see fit to do so, cause the said vessel to be placed in quarantine in so far as not to allow any of the cattle or animals to be landed for such time as he shall determine. So long as such vessel is in quarantine the owner or person in charge of any cattle or animals on board thereof shall provide a sufficient supply of water and food for such cattle or animals, and on failure thereof it shall be lawful for any person authorized by the principal officer of customs to provide such water and food ; and the amount of expenses incurred in that behalf when certified under the hand of the principal officer of customs to the nearest Magistrate shall be recoverable from the owner of such cattle or animals as if it were a fine imposed by such Magistrate.

Power of principal officer of customs to allow cattle to be landed.

(3) The principal officer of customs may, if he shall see fit to do so, allow the cattle or animals or any portion of them to be landed and detained in quarantine at such place and for such time as he shall deem necessary, and such cattle or animals may

thereupon be landed and detained at such place and for such time as aforesaid.

(4) Whenever any vessel has arrived having on board cattle or animals infected with disease or on board of which disease exists, the Minister may order any or any of such cattle or animals to be destroyed and the carcasses disposed of in the manner prescribed in such order; the owner of the cattle or animals destroyed shall not be entitled to any compensation by reason thereof, but the Minister may, if he thinks fit, order such compensation to be paid as he may think reasonable.

(5) No person shall import or cause to be imported into Sri Lanka any cattle or animals from any port or place proclaimed under subsection (1) to be a port or place in which disease is known to prevail.

9. (1) The Minister may make Regulations. regulations for or in respect of all or any of the following matters:—

- (i) for prescribing and regulating the destruction, burial, disposal, or treatment of carcasses, fodder, litter, utensils, dung, or other things being in an infected area, or removed thereout, or which have been in contact with any diseased cattle or animals, or reasonably suspected of being a vehicle for spreading disease;
- (ii) for prescribing and regulating the disinfecting, or if necessary the destruction, of the clothes of persons coming in contact with or employed about diseased or suspected cattle or animals, and the use of precautions against the spreading of disease by such persons;
- (iii) for prohibiting the exposure of diseased or suspected cattle or animals in markets, sale yards, or other public or private places;
- (iv) for prohibiting or regulating the sending or carrying of diseased or suspected cattle or animals, or of dung or other thing likely to spread

- disease, or the causing the same to be sent or carried on railways, canals, rivers, or in vessels, or otherwise;
- (v) for prohibiting or regulating the carrying, leading, or driving of diseased or suspected cattle or animals, or causing them to be carried, led, or driven on the highways or thoroughfares or elsewhere;
  - (vi) for prohibiting or regulating the placing or keeping of diseased or suspected cattle or animals on chenas or unenclosed lands, or in fields or other places insufficiently fenced, or on or near the sides of highways;
  - (vii) for prescribing and regulating the seizure, detention, disposal, and destruction, without compensation, of cattle or animals exposed, carried, kept, or otherwise dealt with in contravention of regulations made under this Ordinance, or of any order made by the Minister, and for prescribing and regulating the liability of the owner or consignor or consignee of the cattle or animals to the expenses connected with the seizure, detention, isolation, disinfection, destruction, and disposal thereof;
  - (viii) for prescribing and regulating the issuing and production of permits required under this Ordinance, and the notices to be given to or by any person in case of any particular disease or in case of the illness of any animal or cattle;
  - (ix) for prohibiting or regulating the holding of markets and fairs for the sale of cattle or animals ;
  - (x) for prescribing and regulating the cleansing and disinfecting of places used for the holding of markets and fairs for the sale of cattle or animals, and yards, sheds, stables, and other places used for cattle or animals;
  - (xi) for prohibiting or regulating the movement of cattle or animals and persons into, in, or out of an infected area or protective zone ;
  - (xii) for requiring cattle or animals to be moved out of a protective zone into other land occupied by the owner or provided by Government for the purpose;
  - (xiii) for requiring cattle or animals within a protective zone to be kept within fenced enclosures or tied or otherwise secured, and for preventing such cattle or animals from straying or running loose ;
  - (xiv) for prescribing and regulating the isolation or separation of cattle and animals being in an infected area, or diseased or suspected cattle and animals;
  - (xv) for prohibiting or regulating the removal of carcasses, fodder, litter, utensils, pens, hurdles, dung, or other things into, in, or out of an infected area;
  - (xvi) for prescribing and regulating the cleansing and disinfecting of infected areas or parts thereof, or of houses, buildings, rooms, or other places occupied by any diseased cattle or animals, or of carts to which diseased or suspected cattle have been attached;
  - (xvii) for declaring any cowshed, pasture, or other place, with or without any land or buildings thereto adjoining, to be an infected place, and for regulating the entry or approach of animals on or to such place and the movement of animals therefrom ;
  - (xviii) for prohibiting or regulating the digging up of buried carcasses ;
  - (xviii a) for prohibiting or regulating the importation of cattle, animals or birds into Sri Lanka ;
  - (xix) for prohibiting or regulating the landing of men or cattle or animals

[§ 8.33 of 1957.]

- from vessel either absolutely or conditionally and for prescribing the fees to be paid to officers appointed to examine such cattle or animals;
- (xx) for establishing and maintaining quarantine and inoculation stations for cattle and animals and for regulating or delegating the regulation of the management of the same, for the imposition, recovery, and disposal of fees for the use of such stations, for compelling cattle and animals to enter such stations, and for providing for the compulsory preventive inoculation of cattle or animals, and for the compulsory testing or inoculation of suspected cattle or animals for the purpose of detecting the presence or diagnosing the nature of any disease ;
- (xxi) for destroying, with or without compensation or with partial compensation as may be expedient. diseased or suspected cattle or animals;
- (xxii) for prescribing the mode of ascertainment of the value of an animal destroyed or liable to be destroyed under these regulations;
- (xxiii) for regulating applications for. and the mode of payment of compensation to be made out of money provided by Parliament;
- (xxiv) for making post-mortem examinations of the bodies of animals which have died of disease or have been destroyed under the authority of this Ordinance;
- (xxv) for prescribing modes of cleansing and disinfecting;
- (xxvi) for protecting cattle or animals from unnecessary suffering during inland transit;
- (xxvii) for securing a proper supply of water and food to cattle or animals during any detention thereof;
- (xxviii) for the appointment of officers to carry out the provisions of this Ordinance, or of any regulations or orders made thereunder, and for regulating their duties and conduct, and for investing them with powers necessary for the due execution of their duties;
- (xxix) for prescribing the publication of any regulations or orders made under this Ordinance, and for prescribing and regulating the form and mode of service or delivery of notices and other documents ;
- (xxx) generally for the better execution of this Ordinance or for the purpose of in any manner preventing the introduction or spread of disease.
- (2) Every regulation made by the Minister under this section shall be published in the Gazette and shall come into operation upon 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 shall 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 or to the making of any new regulation. The date on which a regulation shall be deemed to be so rescinded shall be the date on which Parliament refuses to approve the regulation.
- (5) Notification of the date on which any regulation made by the Minister is deemed to be so 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.

Offences under this Ordinance.

**\*10.** If any person without lawful authority or excuse does or omits to do anything which, under the provisions of this Ordinance or of any regulations or orders made thereunder, he ought not to do or omit, or if he obstructs or impedes or assists in obstructing or impeding any officer appointed under this Ordinance, or any headman or police officer in the execution of this Ordinance or of any regulation or order made thereunder, he shall be guilty of an offence against this Ordinance.

in the execution of his duties under this Ordinance or under any regulation or order made thereunder, or assists in any such obstructing or impeding, he may be apprehended by such officer, grama seva niladhari, or police officer without warrant.

(3) A person apprehended under this section shall be taken forthwith before a Magistrate.

(4) Nothing in this section shall take away or abridge any power or authority that a police officer would have had if this section had not been enacted.

Punishment.

**\*11.** (1) If any person is guilty of an offence against this Ordinance or any regulation made thereunder, he shall be liable on conviction before a Magistrate to imprisonment of either description for a term not exceeding six months, or to a fine not exceeding one hundred rupees.

**14.** In the case of a first offence against this Ordinance, it shall be lawful for any Primary Court, within the limits of whose jurisdiction such offence is committed, to try the offender and to impose such penalty as a Primary Court has power to inflict.

Primary Court may try cases of first offences.

(2) Nothing in this section contained shall affect the liability of any person to any punishment or penalty to which he is liable under any enactment other than this Ordinance, but so that a person shall not be punished twice for the same offence.

**15.** Where a prosecution under this Ordinance is instituted by a police officer or a grama seva niladhari, the court may direct that one-half of any fine recovered in the case shall be paid into the Police Reward Fund or the Grama Seva Niladharis' Reward Fund, respectively.

When may part of fine be paid to Police Reward Fund or Grama Seva Niladharis' Reward Fund.

Vexatious conduct of officers.

**\*12.** Every person acting under the authority of this Ordinance who shall, under pretence of performing any act under the authority of this Ordinance, use any unnecessary violence, or give any uncalled for and vexatious annoyance, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding fifty rupees.

**16.** (1) If any person neglects or omits—

Enforcement of duties under the Ordinance.

(a) to perform any act which, under this Ordinance or under any regulations made thereunder, it is his duty to perform with regard to the isolation, separation, destruction, or burial of cattle or animals, or with regard to the disinfection or cleansing of any place or building or otherwise; or

(b) to comply forthwith with any order lawfully given in the exercise of his powers under this Ordinance, or under any regulation made thereunder by the Chief Government Veterinary Surgeon or by any officer appointed to carry out this Ordinance,

[§ 9, 33 of 1957.]

Duties of inspectors and police officers.

**13.** (1) When a person is seen or found committing, or is reasonably suspected of being engaged in committing, an offence against this Ordinance, any officer appointed under this Ordinance, or any stock inspector or veterinary officer, or any grama seva niladhari or police officer may, without warrant, stop and detain him, and if his name and address are not given by him may, without warrant, apprehend him.

(2) If any person obstructs or impedes any officer appointed under this Ordinance, or any stock inspector or veterinary officer, or any grama seva niladhari or police officer,

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

f Now triable by a Primary Court in any event.



**Cap.571]**

**DISEASES OF ANIMALS**

[§ 9, 33 of 1957.] the Chief Government Veterinary Surgeon or any such officer may cause such act or order to be carried out at the cost and charge of the person by whom the same ought to have been executed.

(2) In any such case the cost and expenses incurred in and about the carrying out of the act or order shall be certified by the Chief Government Veterinary Surgeon under his hand to the nearest Magistrate, and shall be recoverable in the same way as if it were a fine imposed by the Magistrate. All sums recovered by a Magistrate under this section shall be paid by him to the Chief Government Veterinary Surgeon, in order to defray the expenses incurred.

[§ 9, 33 of 1957.]

[§ 9, 33 of 1957.]

Officers to be public servants.

**17.** Officers exercising any of the powers conferred on them by the provisions of this

Ordinance shall be deemed public servants within the meaning of the Penal Code.

**18.** The Chief Government Veterinary Surgeon may, by notification in the Gazette, delegate the enforcement and execution of any provisions of this Ordinance or of any regulation or order made under this Ordinance to the Mayor of any Municipal Council, or the Chairman of any Urban Council or Town Council, and may authorize such Mayor or Chairman to exercise and perform within Municipal, Urban, or Town Council limits all or any of the powers and duties vested and imposed on the Chief Government Veterinary Surgeon under this Ordinance, subject to such restrictions as the Chief Government Veterinary Surgeon may, from time to time, think fit to impose.

Execution of any provisions of this ordinance or any regulation or order made thereunder may be delegated to local authority. [§ 10, 33 of 1957.]

SCHEDULE

[Section 2.]

SINHALA AND TAMIL NAMES OF DISEASES

	<i>Sinhala</i>	<i>Tamil</i>
Rinderpest	Wasangata-roga	Mattukotari or Mattupedi
Foot-and-mouth disease	Kuraleda or Kataleda	Kalnoi or Vainoi

## CHAPTER 63

### DECLARATION OF ASSETS AND LIABILITIES

Law  
No. I of 1975.

A LAW TO COMPEL CERTAIN SPECIFIED CATEGORIES OF PERSONS TO MAKE PERIODIC DECLARATIONS OF THEIR ASSETS AND LIABILITIES IN AND OUTSIDE SRI LANKA ; TO PROVIDE FOR REFERENCE TO BE MADE TO SUCH DECLARATIONS BY APPROPRIATE AUTHORITIES AND FOR INVESTIGATIONS TO BE CONDUCTED UPON THE RECEIPT OF ANY COMMUNICATION AGAINST A PERSON TO WHOM THIS LAW APPLIES ; TO PROVIDE FOR PENALTIES FOR NON-DECLARATION OF ASSETS AND LIABILITIES AND FOR FALSE DECLARATIONS ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st August. 1975.]

Short title.

**1.** This Law may be cited as the Declaration of Assets and Liabilities Law.

(b) the assets and liabilities of his spouse ;  
and

Application of  
this Law.

**2.** (1) The provisions of this Law shall apply to every person belonging to any one of the following classes or descriptions of persons :—

(c) the assets and liabilities of each of his children,

as on such date as may be prescribed by resolution of the National State Assembly,

(a) Members of Parliament;

(2) Where a person who on the appointed date is not a person to whom this Law applies becomes thereafter a person to whom this Law applies, he shall, within three months of the date on which he becomes a person to whom this Law applies, make a declaration of assets and liabilities as on the last-mentioned date.

(b) Judges and other public officers appointed by the President or by the Cabinet of Ministers, or judicial officers\* and scheduled public officers appointed by the Judicial Service Commission, and staff officers in Ministries and Government Departments ;

(3) The declaration of assets and liabilities that a person is required to make under subsection (1) or subsection (2) shall, unless such person ceases to be a person to whom this Law applies, be made periodically in every fifth year after the first declaration of assets and liabilities or at such shorter periodic intervals as Parliament may by resolution determine.

(c) Chairmen, Directors, members of the Boards and staff officers of public corporations ;

(d) elected members and staff officers of local authorities ; and

(e) such categories of other officers as may be specified by regulations.

(2) A person to whom the provisions of this Law apply by virtue of the operation of the preceding provisions of this section, is hereafter in this Law referred to as a " person to whom this Law applies ".

**4.** The declaration of assets and liabilities shall be made in the following manner;—

To whom  
declaration of  
assets and  
liabilities are to  
be made.

(a) to the President—

Duty of  
persons to  
whom this Law  
applies to  
make  
declarations of  
assets and  
liabilities.

**3.** (1) Every person to whom this Law applies shall, within three months after the appointed date, make, in such form as may be prescribed, a declaration, hereinafter in this Law referred to as a " declaration of assets and liabilities ", of all—

(1) by the Speaker of Parliament,

(ii) by Ministers of the Cabinet of Ministers, other Ministers and Deputy Ministers,

(iii) by Judges and other public officers appointed by the President;

(a) his assets and liabilities ;

\* This addition has been made to bring it into line with Article 114 of the Constitution of 1978.

**DECLARATION OF ASSETS AND LIABILITIES**

- (b) to the Speaker of Parliament, by all other Members of Parliament not referred to in paragraph (a) ;
- (c) to the Secretary to the Judicial Service Commission, by judicial officers and scheduled public officers appointed by the Judicial Service Commission ;
- (d) to the Secretary to the Ministry—
  - (i) by Heads of Government Departments,
  - (ii) by Chairmen and Directors of public corporations,
  - (iii) by staff officers in the Ministry ;
- (e) to the Head of the Department, by staff officers of such Department ;
- (f) to the Chairman of the Corporation, by staff officers in such Corporation ;
- (g) to the Secretary to the Ministry charged with the subject of Local Government, by Mayors and Chairmen of local authorities ;
- (h) to the Commissioner of Local Government, by other elected members of local authorities ;
- (i) to the Director of Local Government Service, by staff officers of local authorities who are members of the Local Government Service ; and
- (j) to the persons specified by regulations made by the Minister, by officers of the categories specified by such regulations.

such information or the declaration made under this Law for the performance of his functions under the Bribery Act.

7. (1) Any person may, by a communication in writing signed by him and addressed to an appropriate authority, draw the attention of such authority to any recent acquisitions of wealth or property or to any recent financial or business dealings or to any recent expenditures by any person to whom this Law applies, which to the knowledge of the person making such communication is not commensurate with the known sources of wealth and income of such person to whom this Law applies.

Procedure regarding written communications by any person and prohibition of public statements.

(2) Upon receipt of a written communication under subsection (1), the appropriate authority, if he is satisfied that such communication is genuine and that the communication discloses material upon which an investigation ought to be made, shall make such investigation as may be necessary for the purpose of deciding upon all or any of the following matters :—

- (a) prosecution or other suitable action under the provisions of the Bribery Act or the law relating to Exchange Control or Inland Revenue ; or
- (b) prosecution under this or any other law,

and where such-, appropriate authority finds that a written communication received by him should be dealt with by any other appropriate authority, he may forward such communication to such other authority.

(3) Any appropriate authority, upon deciding to investigate the material in any communication received under this section, may call for and examine the declaration of assets and liabilities made under this Law, and may summon and question or cause to be summoned and questioned the person making the communication and shall cause investigations to be made and concluded as expeditiously as possible and in any case before the lapse of a period of six months from the date of the receipt of such written communication.

(4) Save as provided in subsection (1), it shall be an offence for any person to make a public statement concerning a person to

Power to refer to declaration of assets and liabilities.

5. (1) Any person, body or authority responsible for the appointment, promotion, transfer or secondment, of a public officer or employee of a public corporation or local authority, shall for such purpose, have the right to call for and refer to any declaration of assets and liabilities of such public officer or employee.

(2) The Attorney-General, the Bribery Commissioner, the Commissioner-General of Inland Revenue and the Head of the Department of Exchange Control shall have the right to call for and refer to any declaration of assets and liabilities.

Power of Bribery Commissioner to call for additional information.

6. The Bribery Commissioner may, at any time, call for such additional information as he may require from any person who has made a declaration of assets and liabilities under this Law, and utilize

whom this Law applies alleging that such person has made recent acquisitions of wealth or property, or recent financial or business dealings, or incurred recent expenditures not commensurate with the known sources of wealth and income of such person, or to make any such public statement in respect of any investigation being made by an appropriate authority upon a written communication made by him under the provisions of subsection (1).

(5) Any person who commits an offence under the provisions of subsection (4) shall, upon conviction after trial by a Magistrate, be liable to a fine not exceeding one thousand rupees or to a term of imprisonment of either description not exceeding one year, or to both such fine and imprisonment.

(6) In this section, " appropriate authority " shall mean the Attorney-General, the Bribery Commissioner, the Commissioner-General of Inland Revenue, the Head of the Department of Exchange Control and the Principal Collector of Customs.

Preservation of  
secrecy and  
oath of secrecy.

**8.** (1) Except in the performance of his duties under this Law, a person shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person to whom this Law applies, which may come to his knowledge in the performance of his duties under this Law, and shall not communicate any such matter to any person other than the person to whom such matter relates, or suffer any unauthorized person to have access to any papers or records which come into his possession in the performance of his duties under this Law.

(2) Every person who is required to preserve and aid in preserving secrecy under the provisions of subsection (1) shall take and subscribe before a Justice of the Peace an oath of secrecy in such form as may be prescribed.

(3) Any person required to preserve and aid in preserving secrecy under the provisions of subsection (1) shall not be required to produce in any court any declaration of assets and liabilities or any other document relating thereto, or to divulge or communicate to any court any

matter or thing coming to his notice in the performance of his duties under this Law, except as may be necessary for proceedings instituted or to be instituted under, or for the purpose of carrying into effect the provisions of, this Law or the Bribery Act, the Exchange Control Act, the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979), or the Customs Ordinance.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence and shall, upon conviction after trial before a Magistrate, be liable to a fine not exceeding two thousand rupees or to a term of imprisonment of either description not exceeding two years or to both such fine and imprisonment.

**9.** (1) A person—

offences.

(a) who fails without reasonable cause to make any declaration of assets and liabilities which he is required to make under section 3 ; or

(b) who makes any false statement in any such declaration ; or '

(c) who fails without reasonable cause to give such additional information as the Bribery Commissioner may require under this Law ; or

(d) who otherwise contravenes any provisions of this Law,

shall be guilty of an offence and shall, unless any other penalty is otherwise provided, on conviction after trial before a Magistrate, be liable to a fine not exceeding one thousand rupees, or imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

(2) A person who is convicted of an offence under paragraph (a) of subsection (1) shall, within a period of fourteen days after the date of conviction, or in the event of an appeal against such conviction, within a period of fourteen days after the date of affirmation of such conviction, make the declaration of assets and liabilities referred to in section 3. The provisions of section 3 and the provisions of the other preceding sections of this Law shall, mutatis mutandis, apply to any declaration of assets and liabilities made by such person under this subsection in like manner and to the same

extent as they apply to any declaration of assets and liabilities made under section 3.

(3) Any person who fails to comply with the provisions of subsection (2) shall be guilty of an offence and shall, on conviction after 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 and to a further fine of fifty rupees for each day of continuation of that offence.

(4) Where any person has been convicted by a court of any offence under paragraph (a) or paragraph (b) of subsection (1), it shall be the duty of the court to bring the fact of such conviction to the notice of the person to whom such convicted person was bound to make the declaration of assets and liabilities under this Law.

(5) No prosecution for any offence under this Law shall be instituted except with the prior sanction of the Attorney-General.

Regulations. **10.** (1) The Minister may make regulations—

- (a) relating to any matter required by this Law to be prescribed ;
- (b) specifying categories of officers for the purpose of paragraph (e) of section 2 (1) and the person to whom each such category of officers shall make the declaration of assets and liabilities ; and
- (c) in respect of all matters necessary for carrying out the provisions or giving effect to the principles of this Law.

(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.

This Law to prevail over other laws.

**11.** Where the provisions of this Law are in conflict or inconsistent with the provisions of any other law the provisions of this Law shall prevail.

Interpretation. **12.** In this Law, unless the context otherwise requires—

" appointed date " means the 1st day of August, 1975 ;

" assets and liabilities " means assets and liabilities in and outside Sri Lanka, and includes movable and immovable property ;

" child " means—

- (a) a child who is unmarried and under eighteen years of age ;  
or
- (b) a child who is eighteen years of age or over but is dependent on his or her parent or parents, and includes a step-child or a child who has been adopted under the Adoption of Children Ordinance ;

" Commissioner of Local Government " includes any Deputy Commissioner of Local Government and any Assistant Commissioner of Local Government;

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

" prescribed " means prescribed by regulation ;

" 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 partly or wholly provided by the Government by way of grant, loan or other form, and includes all " scheduled institutions " within the meaning of the Bribery Act and such other institutions or bodies of persons as may be prescribed by regulations under section 10 ;

" staff officer " means—

- (a) in the case of any employee of the Government or a local authority, any officer holding any office the initial of the salary scale of which is not less than Rs. 6,720 per annum;and
- (b) in the case of any employee of a public corporation, any officer holding any office the initial of the salary scale of which is not less than Rs. 7,200 per annum.

CHAPTER 292

DEFINITION OF BOUNDARIES

Ordinances Nos. 1 of 1844,  
 13 of 1905,  
 28 of 1919,  
 27 of 1933,  
 8 of 1947,  
 Act No. 22 of 1955.

AN ORDINANCE TO MAKE PROVISION FOR THE MORE EASILY ASCERTAINING THE BOUNDARIES OF LANDS IN SRI LANKA.

[17 th January, 1844.]

Short title. 1. This Ordinance may be cited as the Definition of Boundaries Ordinance.

Government Agent may demand production of title deeds.

2. It shall at any time be lawful for the Government Agent of the administrative district to demand in writing of any person claiming to be the owner of any land within the same the production of every deed, document, and instrument upon which such person founds such claim; and if the occupier or person having the superintendence or management of any such land, not being himself the alleged owner thereof, shall refuse to give full information respecting the name and residence of such alleged owner, upon being requested so to do by the Government Agent, or if such alleged owner shall refuse to produce to the Government Agent, within ten days after being requested so to do, every deed, document, and instrument upon which he founds his claim to the said land, and which shall be in his possession, or if any such deed, document, or instrument shall not be in his possession, shall refuse fully to inform the Government Agent, upon application, in whose possession they are, or if any person having in his possession any such deed, document, or instrument shall refuse to produce the same within ten days after having been requested so to do in writing by the Government Agent, every such occupier, superintendent or manager, alleged owner, and person so refusing shall be guilty of an offence, and be liable, on conviction thereof, to any fine not exceeding fifty rupees.

3. From and after the passing of this Ordinance, no person shall be liable to any action for trespass for any entry upon any land within Sri Lanka, or to any action for damages in respect of any injury done to the same, if the title to such land shall be founded on any grant from the State, or if the person claiming to be the owner thereof shall have attached or belonging to the deed, document, or instrument by virtue of which he claims such land, a correct and authenticated survey thereof, or shall at any time have received a certificate that the State has no claim upon such land, unless the boundaries of such land shall be clearly defined along their whole line, or at such intervals as shall accurately show their whole line, by some wall, bank, ditch, fence, posts, stones or other sufficient landmarks or boundary, unless such trespass or injury shall have been wilfully committed.

Trespassers, unless wilful, not liable.

4. If the State shall have heretofore granted, or shall hereafter grant, any land which shall have been previously granted by the State to any party, or which shall be possessed by any person in manner provided by section 3 of this Ordinance, and the boundaries whereof shall not have been or shall not be clearly defined in the manner provided by the said section at the time of making such erroneous grant, and if the party to whom any such erroneous grant shall have been made shall have entered upon such land, and shall have clearly defined the boundaries thereof as aforesaid, and remained in undisturbed possession thereof for the space of three years subsequent to the passing of this Ordinance,

Where party has had possession for three years of land erroneously granted by the State.

and shall have cultivated or improved the same, the party so in possession shall be entitled to retain the land so cultivated and improved upon payment to the party having a title to the same under the original grant from the State or under any other good and sufficient title, of the value of such land at the time such erroneous grant shall have been made (which value shall be determined, if necessary, by arbitration in manner hereinafter provided): And upon such payment being made to such party, and in consideration thereof, such party is hereby required to execute a good and valid transfer of such land to the party so in possession thereof as aforesaid, and his heirs, upon application by and at the sole cost of the said party so in possession ; and the said party so in possession shall be entitled to recover from the State the amount paid to the State in respect of such erroneous grant.

entitled to recover from the State the amount paid to the State by such party in respect of such erroneous grant:

Provided always that if the first grantee or proprietor of such land shall decline to enter into possession of the land so cultivated or improved, he shall be entitled to recover from the cultivator or improver thereof the value of the land and one-fourth of the value of the cultivation or improvements thereupon, such value to be determined by arbitration in manner hereinafter provided ; and upon payment of such amount the said first grantee or proprietor shall, upon application by and at the cost of the party having cultivated or improved such land, execute a good and valid transfer thereof to such party and his heirs, and the said last-mentioned party shall be entitled to recover from the State the amount paid to the State in respect of such erroneous grant; and

Where less than three years.

5. If the State shall have heretofore granted, or shall hereafter grant, any land which shall have been previously granted by the State to any party, or which shall be possessed by any person in manner provided by section 3 of this Ordinance, and the boundaries whereof shall not have been or shall not be clearly defined in the manner provided by the said section at the time of making such erroneous grant, and if the party to whom such erroneous grant shall have been made shall have entered upon such land and clearly defined the boundaries thereof, and shall have cultivated or improved the same, but shall not have remained in undisturbed possession thereof for the space of three years subsequent to the passing of this Ordinance, then the first grantee or proprietor shall not be entitled to enter upon and take possession of the land so cultivated or improved except upon payment to the cultivator or improver thereof of three-fourths of the improved value of such land, less the value of such land in its uncultivated state, such last-mentioned value to be taken to be the same as that of similar land adjoining; and such questions of value shall be determined by arbitration in manner hereinafter provided ; and the party having so cultivated or improved the same shall be

Provided further, that if it shall appear that the party having claim to such land under such first grant from the State or under any other good and valid title, had full knowledge of such land being so cultivated or improved, and wilfully, fraudulently, or negligently abstained from giving notice to the party cultivating or improving the same that such land was the property of the party having such claim as aforesaid, then the party so having cultivated or improved the same shall be entitled to retain possession of such land upon the same terms and in such and the like manner as is declared in section 4 of this Ordinance in respect of parties who shall have cultivated or improved land erroneously granted to them by the State and shall have remained in undisturbed possession of the same for the space of three years subsequent to the passing of this Ordinance.

6. If any person shall without fraud and in perfect good faith enter upon any uncultivated land which shall be the property of any other person, the boundaries of which shall not be clearly defined as aforesaid, and shall cultivate or improve the same, and shall remain in

Where party has had possession for not less than two nor more than five years of uncultivated land belonging to another.

undisturbed possession thereof for any period not less than two nor more than five years, the proprietor of such land so cultivated or improved shall not be entitled to enter upon or take possession of the same, unless upon payment to the party by whom it shall have been so cultivated or improved of three-fourths of the improved value of such land, less the value of such land in its uncultivated state, such last-mentioned value to be taken to be the same as that of similar land in the neighbourhood; and such questions of value shall be determined by arbitration in manner hereinafter provided :

Provided always that it shall be lawful for such proprietor, if he shall think fit, to recover from the party having cultivated or improved such land one-fourth of the value of the land, and one-fourth of the value of the cultivation or improvements thereupon, and upon payment of such amount to such proprietor such proprietor shall, on application at the cost of the party so having cultivated or improved such land, execute a good and valid transfer thereof to such party and his heirs ; and

Provided further, that if it shall appear that the proprietor of such land had full knowledge of such land being so cultivated or improved, and wilfully, fraudulently, or negligently abstained from giving notice to the party so cultivating or improving the same that such land was his property, such proprietor shall not be entitled to re-enter upon such land except upon payment to the party having cultivated or improved the same of the full improved value of such land, less the value thereof in its uncultivated state; and such questions of value shall be determined by arbitration in manner hereinafter provided.

Where more than five years.

**7.** If any person shall without fraud and in perfect good faith enter upon any uncultivated land which shall be the property of any other person, the boundaries of which shall not be clearly defined as aforesaid, and shall cultivate or improve the same, and shall remain in undisturbed possession thereof for upwards

of five years, the proprietor of such land shall not be entitled to enter upon and take possession of such land so cultivated or improved, unless upon payment to the party having cultivated or improved the same of the full improved value thereof, less the value of the land in its uncultivated state, which last-mentioned value shall be deemed and taken to be the same as that of similar land in the neighbourhood; and such questions of value shall be determined, if necessary, by arbitration in manner hereinafter provided:

Provided nevertheless, that such proprietor shall, if he elect so to do, have full power and authority to claim and recover from the party having cultivated or improved such land the value of such land in its uncultivated state, such value to be taken to be the same as that of similar land in the neighbourhood at the time of valuation, and to be determined, if necessary, by arbitration in manner hereinafter provided ; and upon payment of such amount to such proprietor, and in consideration thereof, such proprietor is hereby required to execute a good and valid transfer thereof to the party having cultivated or improved the same, and his heirs, the cost of such transfer to be borne by such party ; and

Provided further, that if it shall appear that the proprietor of such land had, at any time within such five years, full knowledge of such land being so cultivated or improved, and wilfully, fraudulently, or negligently abstained from giving notice to the party cultivating or improving the same that such land was his property, then it shall be competent to such party, upon payment to such proprietor of the value of such land when first entered upon by such party (such value to be determined, if necessary, by arbitration in manner hereinafter provided), to call upon such proprietor, and such proprietor is- hereby required, to execute a good and valid transfer thereof to such party and his heirs at the cost of such party.

**8.** It shall be lawful for any person possessed of land in manner provided by section 3 of this Ordinance, the boundaries of which shall not be clearly defined as aforesaid, or any agent on his behalf, to call

Proprietors of adjoining lands may call upon each other to define boundaries.



upon the proprietor or occupant of any land adjoining thereunto, not being the State, or upon his agent, by notice in writing under the hand of such possessor, to be served personally on such last-mentioned proprietor, occupant, or agent, or in the event of their absence from Sri Lanka, or of their not being known, by affixing the same for the space of one month on some conspicuous place in every kachcheri and court-house within the district in which such land shall be situated, and upon the land itself, to cause one-half of such boundary to be made or renewed as shall require to be made or renewed, except where the liability of making or renewing such boundary or any part thereof shall by any law, custom, or agreement be otherwise determined ; and if the making or renewal of such boundary shall not be commenced within thirty days after the service of such notice, and be diligently proceeded with, such first-mentioned possessor shall be entitled to cause such half of such boundary to be made or renewed, and to recover twice the amount of the costs necessarily incurred therein from the party failing to make or renew his share of such boundary:

Provided always that where the land of any person shall adjoin land belonging to the State, it shall be competent for the Government Agent or any Assistant Government Agent of the administrative district in which such lands so adjoin, to call upon such subject, by notice to be served in manner provided in respect of the notice hereinbefore mentioned, to make or renew the whole of such boundary, or such part thereof as shall require to be made or renewed; and if the making or renewal of such boundary shall not be commenced within thirty days after the service of such notice, and diligently proceeded with, the said Government Agent or Assistant Government Agent shall be entitled to cause such boundary to be made or renewed, and to recover from such subject twice the amount of the costs necessarily incurred therein.

9. Where it appears to a Government Agent or Assistant Government Agent that the boundary of land belonging to any person which adjoins land belonging to the State should be made or renewed in whole or in part, such Government Agent or Assistant Government Agent may, in lieu of taking action under section 8, adopt the following procedure:—

Procedure when Government Agent or Assistant Government Agent finds boundary of private land adjoining State land should be made or renewed.

(a) the Government Agent or Assistant Government Agent, if he is of opinion, after consultation with the Surveyor-General, that the work of making or renewing a boundary cannot be satisfactorily carried out by such person or any surveyor employed by him, may call upon the Surveyor-General to make or renew such boundary in whole or in part and thereupon such Surveyor-General shall make or renew such boundary, as the case may be;

When owner of such land cannot get its boundary satisfactorily surveyed, Government Agent or Assistant Government Agent may get Surveyor-General to make survey.

(b) the Surveyor-General shall certify the amount of the cost of the survey to such Government Agent or Assistant Government Agent, and such certificate shall be final and conclusive ;

Surveyor-General shall certify cost of such survey.

(c) such person as aforesaid shall pay the amount so certified to such Government Agent or Assistant Government Agent, and in the event of such person refusing or neglecting to pay such amount, a summons shall be served upon him requiring him to show cause before a Magistrate why the said amount should not be paid by him, and if he fails to show cause, or if he fails to appear, the Magistrate, on proof of service of the summons and on reading the Surveyor-General's certificate as aforesaid, may make an order for payment of the amount;

Payment of such cost of survey.

(d) the amount ordered to be paid under the last preceding paragraph may be recovered in the manner provided by law for the recovery of fines by Magistrates, although exceeding the amount that is within their ordinary jurisdiction, and when so recovered shall be paid to such Government Agent or Assistant Government Agent as aforesaid.

How such cost of survey may be recovered.

Where boundaries have been made and adjoining lands subsequently purchased.

10. If any person possessed of land in manner provided by section 3 shall, after the passing of this Ordinance, clearly define the boundaries of his land as aforesaid before the lands immediately adjoining thereunto shall have been duly granted by the State, or otherwise held as private property, the owner of the land the boundaries of which shall have been so made shall be authorized to claim and recover from the person or persons who shall afterwards become the proprietor or proprietors of such adjoining lands, one-half of the actual value of the boundaries there existing between the said adjoining lands, and such value shall be determined, if necessary, by arbitration in manner hereinafter provided as soon as is practicable after such adjoining land shall have been granted by the State, or otherwise held as private property as aforesaid.

Disputes to be referred to arbitration.

11. Wherever any question shall be left under the provisions of this Ordinance to be determined by arbitration, such arbitration shall be referred to two persons, one of whom shall be nominated by each of the parties, and the amount which shall be awarded under such arbitration shall, upon due proof and verification of such award before any competent court, be recovered in the same manner that such amount would have been recoverable if it had been decreed to be due by the judgment of such court:

Provided always that in case such two persons so nominated as aforesaid shall not agree in the amount of the sum to be paid within the space of one calendar month next after such reference shall be made to them, then and in such case the same shall be referred to the determination of such indifferent person as the said arbitrators by any writing under their hands shall nominate and appoint as umpire in the case, and the decision of such umpire shall be conclusive and the amount awarded by him shall be recoverable in like manner as is hereinbefore provided in respect to the amount awarded by the original referees ;

Provided also, that in case either of the parties in difference shall neglect or refuse, for the space of one calendar month after notice in writing given by the other party for that purpose, to join in the appointment of

such arbitrators as aforesaid, it shall and may be lawful for the arbitrator to be chosen by the party giving such notice to nominate another arbitrator to act with him, and the award of such arbitrators, or if they shall not agree in an award, then the award of the umpire, whom they are hereby required to nominate in like manner as hereinbefore provided in respect of the umpire to be nominated by the original referees, shall be binding and conclusive, and the amount awarded under it be recoverable in like manner as if the party so neglecting or refusing had chosen an arbitrator who had actually joined and made an award therein.

12. In all cases where any dispute or difference shall arise between the respective owners, or persons legally possessed of such adjoining lands, as to the necessity or sufficiency of any boundary as aforesaid, then and in every such case the same shall be referred to arbitration in like manner, and shall be subject to the like award in manner hereinbefore provided, which award shall in like manner be binding and conclusive.

Disputes between respective owners as to necessity or sufficiency of boundary to be referred to arbitration.

13. No person shall acquire any right under the provisions of this Ordinance in respect of the entry upon and cultivation of land which shall be the property, sole or joint, of any person under twenty-one years of age, or of any insane person : and

Ordinance not to affect property of minors or insane persons, &c.

Provided further, that no person shall be subject to the liabilities hereinbefore declared for the not making of a proper boundary to the land possessed by him, if the making thereof shall have been stayed by any order or judgment of any competent court of law.

14. Every person who shall wilfully and knowingly remove, destroy, or efface, or attempt to remove, destroy, or efface, any landmark or boundary which shall serve to mark the limits of any land, except for the purpose of repairing the same, shall be guilty of an offence, and be liable, on conviction thereof, to payment of any fine not exceeding five hundred rupees, or to imprisonment, with or without hard labour, for any period not exceeding one year.

Penalty on removing landmarks.

**CHAPTER 20**

**DESTRUCTION OF VALUELESS DOCUMENTS**

*Ordinances*

Nos. 12 of 1894,  
7 of 1905,  
13 of 1905,  
24 of 1930.

*Laws*

Nos. 44 of 1973,  
25 of 1975,  
22 of 1977.

AN ORDINANCE TO AUTHORIZE THE DESTRUCTION OF VALUELESS DOCUMENTS PRESERVED IN COURTS OF JUSTICE.

[2nd January, 1895.]

Short title.

1. This Ordinance may be cited as the Destruction of Valueless Documents Ordinance.

5. The different classes of documents enumerated in Part B of the Second Schedule may be destroyed : what documents may, be destroyed.

Provided that in regard to the money cases, cases relating to persons of unsound mind, and District Court criminal cases therein mentioned, the material particulars of each such case shall have been accurately abstracted and entered in a register as near as may be according to the forms II, III, and IV in the First Schedule :

Provided also that at least three months before the date fixed for such destruction it shall have been notified by order of court, within the jurisdiction of such court, by proclamation in court and beat of torn torn, printed notices, or advertisements in one or more local newspapers, that any person interested in any record may personally, by attorney-at-law, or by duly authenticated petition, claim, upon good cause shown, that such record may not be destroyed; in which event it shall be competent to the court to make such order thereon as to it shall seem meet.

Minister in charge of the subject of Justice may bring any Court of Justice under the operation of this Ordinance.

2. It shall be lawful for the Minister in charge of the subject of Justice, by Order in that behalf made, to bring any Court of Justice in Sri Lanka under the operation of this Ordinance, and such Order to amend, alter, or revoke as and whenever the Minister in charge of the subject of Justice shall determine.

Register of extant and missing records.

3. Where an Order under section 2 has been made in respect of any Court of Justice, it shall be the duty of the officer presiding over it to cause to be prepared in duplicate a register of all the records of his court, extant and missing, according to the form 1 given in the First Schedule, and he shall certify to the correctness of such register.

What documents are not to be destroyed.

4. The different classes of documents enumerated in Part A of the Second Schedule shall not be destroyed, but the summonses, subpoenas, and other intermediate processes filed therein may be destroyed :

Provided that no such processes shall be destroyed except in cases which have been determined more than ten years previous to the date of destruction.

6. The preservation and destruction of the documents of each court in terms of this Ordinance shall be carried out under the personal direction of the officer presiding over such court. Responsibility of the judge of each court.

7. A true extract from any register made in terms of this Ordinance, duly certified by the officer presiding over a court, shall be received as prima facie evidence of the matters and things therein contained. Extract from register to be evidence.

FIRST SCHEDULE

Form I

REGISTER OF EXTANT AND MISSING RECORDS IN THE \_\_\_\_\_

Year	Number of Records, in Series of hundreds	Number of Missing Records
1845	1 to 99	6, 7, 8, 15, 16.
1845	100 to 199	143, 148, 160.
1846	200 to 299	240, 260, 276.
1846	300 to 399	362, 375, 376, 378, 390.
1847	400 to 499	429, 430, 475, 478, 492, 493, 497, 498.
1848	500 to 599	Nil.
1849	600 to 699	Nil.

I hereby certify that this is a correct register of the extant and missing records of this court filed from the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, to the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Signed) \_\_\_\_\_

Form II

[Section 5.]

REGISTER OF MONEY CASES DESTROYED IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_

Number of Plaintiff	When instituted	Name and Residence of Plaintiff	Name and Residence of Defendant	Nature of Suit	Amount claimed	Final Judgment or Decree of Court	Date of such Judgment or Decree	Judgment or Decree in Appeal	Date of such Judgment or Decree	Remarks

I hereby certify that this is a correct register of the destroyed money cases filed in court from the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, to the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Signed) \_\_\_\_\_

Form III

[Section 5.]

REGISTER OF CASES, RELATING TO PERSONS OF UNSOUND MIND, DESTROYED IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_

Number	Date	How instituted	Name and Residence of Person alleged to be of Unsound Mind	Final Order	Remarks

I hereby certify that this is a correct register of the destroyed cases, relating to persons of unsound mind, filed in court from the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, to the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Signed) \_\_\_\_\_

Form IV

[Section 5.]

REGISTER OF CRIMINAL CASES DESTROYED IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_

No. of Case	When instituted	Name and Residence of Complainant	Name and Residence of Accused	Crime or Offence Charged	Date of Judgment	Sentence	Remarks	Judgment in Appeal	Remarks

I hereby certify that this is a correct register of the destroyed criminal cases filed in court from the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, to the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

(Signed) \_\_\_\_\_

SECOND SCHEDULE

[Sections 4 and 5.]

Part A

Part B

CLASSES OF DOCUMENTS NOT TO BE DESTROYED

CLASSES OF DOCUMENTS WHICH MAY BE DESTROYED, SUBJECT TO THE PROVISOS OF SECTION 5

1. Land cases.
2. Testamentary cases.
3. Matrimonial cases.
4. Regular guardianship cases, as distinguished from those in which applications for a guardian *ad litem* only have been allowed.
5. Insolvency cases.
6. Cases in which a person has been adjudged to be of unsound mind.
7. Cases which have been decided in appeal.
8. Other cases of public interest.
9. Money cases in which—
  - (a) mortgage decrees have been entered ;
  - (b) unclaimed suitors' moneys are lying in deposit ;
  - (c) satisfaction of judgment-decree or order has not been recorded ;
  - (d) judgment being revived or writ issued, ten years have not elapsed.
10. Cases prior to 1833, and a few cases later than 1833 as specimens of procedure.
11. Calendars, registers or lists of cases made under the authority of any law or any order of the Government.
12. Notarial and other documents which may be useful as evidence of civil rights.

1. Money cases, save those excepted as in Part A under heads 9, 10, 11 and 12.
2. Cases over five years old, relating to persons of unsound mind, save those in which an adjudication of unsoundness of mind has been recorded.
3. All Justice of the Peace cases.
4. All inquest proceedings prior to 1884.
5. Non-summary inquiry cases over five years old.
6. District Court criminal cases over five years old.
7. Petitions, reports, cattle vouchers, &c., over five years old.
8. Summary criminal cases over five years old.
9. Inquest proceedings of 1884 and subsequent years, which are over five years old, except those in which a finding is recorded that the death was caused by some person who has not been found :

Provided that notarial and other documents which may be found in the foregoing classes of records, and which may be useful as evidence of civil rights, shall be removed from such records and not destroyed.

CHAPTER 423

DEEGHAVAPI PRATHISANSKARANA SABHAWA

Act  
No. 18 of 1980.

AN ACT TO INCORPORATE THE DEEGHAVAPI PRATHISANSKARANA SABHAWA.

[17th April, 1980.]

Preamble.

Whereas the Great Tathagata the Sambuddha in the Eighth Year after he had attained Buddhahood visited Kalyani in Sri Lanka on the invitation of King Maniakkhika with five hundred Bhikkhus on the Full Moon Day of the month of Wesak :

And whereas on the said occasion the Great Tathagata the Sambuddha visited Deeghavapi and sat with the five hundred Bhikkhus in meditation at the place where the Deeghavapi Chaitya was later constructed:

And whereas King Saddhatissa who ruled Sri Lanka from 77 B.C. to 59 B.C. constructed the Deeghavapi Chaitya at the said sacred place where the Great Tathagata Sambuddha with the five hundred Bhikkhus sat in meditation:

And whereas thereafter the Deeghavapi Chaitya became a place of great religious worship and all the Kings of Sri Lanka who ruled from Anuradhapura and Polonnaruwa and other capitals of Sri Lanka patronised and maintained the said Chaitya and the connected monastic establishments:

And whereas with the foreign invasions and the resultant destruction of the network of irrigation works and the collapse of the Sinhala agricultural civilization in the Dry Zone the Deeghavapi Chaitya and the monastic establishments connected with it fell into ruins:

And whereas in the twentieth century with the granting of independence to Sri Lanka and the development of roads and the restoration of irrigation works, the districts surrounding Deeghavapi once again became a prosperous agricultural area of Sri Lanka and the Deeghavapi Chaitya once again became a prominent place of worship of Buddhists of Sri Lanka:

And whereas on the 30th day of December, 1978, a number of prominent Buddhists realising the need of the restoration of the Deeghavapi Chaitya and the connected monastic establishments, assembled at the office of the Government Agent, Ampara, under the guidance and chairmanship of Hon. E. L. Senanayake, Minister of Agricultural Development and Research in the Government of His Excellency the President J. R. Jayewardene, and formed the Deeghavapi Prathisanskarana Sabhawa—an association for the restoration of the Deeghavapi Chaitya and the connected religious buildings and monastic establishments as a place of religious worship as in the days of the Sinhala Kings:

And whereas the said Deeghavapi Prathisanskarana Sabhawa has applied to be incorporated and it will be for the public advantage to grant the application:

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

1. This Act may be cited as the Deeghavapi Prathisanskarana Sabhawa (Incorporation) Act.

2. From and after the date of commencement of this Act such and so many persons as now are members of the Deeghavapi Prathisanskarana Sabhawa (hereinafter referred to as " the Sabhawa ") 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 " Deeghavapi Prathisanskarana Sabhawa ", and by that name may sue and be sued in all

Short title.

Incorporation of the Deeghavapi prathisanskarana Sabhawa.

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) to take all steps necessary to maintain the historic Deeghavapi Chaitya area as a sacred area;
- (b) to restore the Deeghavapi Chaitya, lay its pinnacle, construct all the necessary buildings, to make the Deeghavapi Chaitya a place of Buddhist worship complete in all respects and continue to maintain the Deeghavapi Chaitya as a place of sacred religious worship ;
- (c) to take all necessary steps for the preservation of all archaeological remains and objects in the districts surrounding the Deeghavapi Chaitya;
- (d) to take all necessary steps to make Deeghavapi a sacred area with all the requirements of a sacred city;
- (e) to take all necessary steps to assist the Buddhists of Sri Lanka in resolving their problems; and
- (f) to take all steps incidental to and necessary for the achievement of the above-mentioned objects.

Powers and functions of the Corporation.

**4.** (1) The Corporation shall have the power to do all things necessary for or conducive or incidental to the carrying out of the objects of the Corporation.

(2) Without prejudice to the generality of the powers conferred under subsection (1) the Corporation shall have the following powers and functions :—

- (a) to receive or collect gifts, grants, donations, subsidies and subscriptions whether in cash or otherwise from the Government, or private organizations, or from sources outside Sri Lanka;
- (b) to acquire and hold either as absolute or beneficial owner or as trustee or

otherwise by purchase, exchange, gift, devise, or bequest, or in any other manner and to hold and enjoy in perpetuity or for any lesser period subject to any express trust or otherwise for the benefit or the furtherance of the objects of the Corporation, any property, movable or immovable of any kind or nature whatsoever;

- (c) to open, operate and close bank accounts and to borrow or raise money with or without security;
- (d) to sell, lease, mortgage, exchange or otherwise dispose of any movable or immovable property, belonging to or held by the Corporation subject to any trust attaching to such property;
- (e) to invest the funds vested in or belonging to the Corporation in adequate securities or in the purchase or acquisition of such lands, buildings, goods, chattels, or other property as may be proper or necessary for the purposes of the Corporation;
- (f) to erect or cause to be erected any buildings or structure on any land belonging to or held by the Corporation;
- (g) to make such investments or take such steps as may be necessary for the promotion, protection and maintenance of the Deeghavapi Sacred Area as a place of archaeological and cultural importance and as a place of Buddhist religious worship;
- (h) to employ such officers, servants and agents as may be necessary for carrying out the objects of the Corporation; and
- (i) subject to the rules of the Corporation to enter into any agreement, to create, execute, grant or issue any mortgages, bonds or obligations for the accomplishment of the objects of the Corporation.

Committee of Management,

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.

(2) The first members of the Committee of Management of the Corporation shall be the members of the Committee of Management of the Sabhawa holding office at the time of the coming into operation of this Act.

Rules of the Corporation.

6. (1) The Corporation may, from time to time, at a meeting specially convened for the purpose and by a majority of votes of the members present and voting, 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, resignation and expulsion of members and the rights of members;
- (b) the election of office-bearers and other persons constituting the Committee of Management and the period of office of the Committee of Management;
- (c) the procedure to be followed in convening meetings of the Corporation and the Committee of Management and the transaction of business at such meetings ;
- (d) the officers of the Corporation, their election or appointment, and their conduct and duties;
- (e) the appointment of agents and servants of the Corporation, and

their conduct, duties and disciplinary control;

- (f) the collection and disbursement of the funds of the Corporation and the maintenance and operation of bank accounts; and
- (g) the auditing of accounts of the Corporation.

(2) The rules of the Sabhawa in force at the time of the coming into operation of this Act shall be deemed to be the rules of the Corporation made under this section.

(3) Any rule of the Corporation for the time being in force or any rule which may hereafter be passed, shall not be altered, added to, amended or rescinded except by a vote of two-thirds of the members present and voting at a special meeting of the Corporation duly summoned for the purpose.

7. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of the President or, in his absence, any of the Vice-Presidents and any one of the Joint-Secretaries 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. The seal shall be kept in the custody of the Joint-Secretaries.

Seal of the Corporation.

8. Any member of the Corporation shall, for the purpose of discharging the debts or liabilities of the Corporation, not be liable to make any contribution whatsoever.

Limit of liability of members.

9. Anything in this Act contained shall not 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



**CHAPTER 432**

**DUTCH REFORMED CHURCH**

*Ordinance*  
No. 9 of 1926.

AN ORDINANCE TO INCORPORATE THE GENERAL CONSISTORY OF THE DUTCH REFORMED CHURCH IN CEYLON.

[3rd November. 1926]

Preamble.

Whereas by Ordinance No. 12 of 1896 the members of the consistory of the Dutch Reformed Church at Wolvendaal, Colombo, were incorporated under the name of "The Consistory of the Dutch Reformed Church at Wolfendahl, Colombo ":

consistory, and that the said churches should likewise hereafter be governed by the provisions of this Ordinance :

And whereas it was in the said Ordinance provided that for the purposes thereof the Dutch Reformed Church at Wolvendaal should be held to include the branch churches at Bambalapitiya and Maligakanda and any churches to be thereafter erected by the said consistory :

Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :—

And whereas churches have since been erected by the said consistory at Regent Street, at Wellawatta, and at Dehiwela:

1. This Ordinance may be cited as the General Consistory of the Dutch Reformed Church in Ceylon Ordinance.

Short title.

And whereas there are branches of the Dutch Reformed Church at Galle and at Matara under the control and management of their respective consistories :

2. Within three months of the passing of this Ordinance the said "Consistory of the Dutch Reformed Church at Wolfendahl, Colombo ", shall constitute consistories for the churches at (1) Wolfendahl, (2) Bambalapitiya, (3) Regent Street and Maligakanda, (4) Wellawatta and Dehiwala, and (5) Galle and Matara, each such consistory to consist besides the minister in charge who shall be president, of six members, namely, two Elders and four Deacons. The mode of election of members for the said consistories and their due ordination and installation in office shall be subject to the terms of section 2 of the Schedule to the said Ordinance No. 12 of 1896.

Constitution of local Consistories.

And whereas for the purpose of more effectively transacting the affairs of the said several churches and of promoting the welfare of the Dutch Reformed Church in Ceylon generally, it is deemed expedient to have separate local consistories for the management and control of one or more churches as circumstances may require, together with a general consistory in which shall vest all property and which shall have a general supervising authority, and the consistories of the said churches at Galle and at Matara have expressed their desire that the property, movable and immovable, now possessed by them or their said churches should vest in such general

3. Within a month after the said local consistories have been so constituted the said " Consistory of the Dutch Reformed Church at Wolfendahl, Colombo" shall meet and duly pass a resolution\* recording the constitution of the said local consistories and confirm the minutes of the said meeting, and thereupon the said " Consistory of the Dutch Reformed Church at Wolfendahl, Colombo " shall stand

Coming into existence of the general consistory.

\* Resolution passed on 8th January, 1927.

dissolved and the General Consistory of the Dutch Reformed Church in Ceylon shall come into existence consisting of all the members of the said local consistories, and it shall so consist for a period of one year and thereafter until the constitution thereof be altered by a rule to be made under section 10 (3) (d) hereof providing for representation of local consistories on the general consistory.

Lanka or elsewhere in the name of the said " Consistory of the Dutch Reformed Church at Wolfendahl, Colombo " or of either of the said consistories of the Dutch Reformed Churches at Galle and at Matara or in the name of their respective churches or of any person or persons as trustee or trustees of any of the said churches shall be, and the same are hereby declared to be transferred and vested as from and after the said date in the said General Consistory of the Dutch Reformed Church in Ceylon and their successors in the corporate name as fully as if the same had been assigned and transferred by the consistory or consistories, church or churches, or person or persons, trustee or trustees in whose name or names the same are now held to the said corporation. And the said corporation shall have full power to assign, transfer, and dispose of all such mortgages and other securities to which they shall be entitled as the said corporation shall think proper.

Incorporation of the general consistory.

**4.** From and after the date of the said general consistory coming into existence the members thereof shall be a corporate body under the name of "The General Consistory of the Dutch Reformed Church in Ceylon " and by the said name they shall have perpetual succession and shall and may use a common seal with power to alter and change the same at their pleasure.

It may sue and be sued.

**5.** They and their successors by the same name may sue and be sued, implead and be impleaded, answer and be answered unto, defend and be defended in all and any courts whatsoever and before any Judge, Magistrate, or judicial officer within Sri Lanka, in all manner of actions, suits, complaints, matters, and causes whatsoever.

May hold property.

**6.** They and their successors by the name aforesaid shall be able and capable in law of holding all such estate, movable and immovable, as hath been already held or acquired by the said " Consistory of the Dutch Reformed Church at Wolfendahl, Colombo " and by the consistories of the Dutch Reformed Churches at Galle and at Matara respectively or hath in any wise howsoever been vested in the said consistories or their respective churches or in any person or persons as trustee or trustees for them or any of them, and of having, taking, and holding for ever after the said date other estate, movable and immovable, either by purchase, gift, devise, or legacy to and for the use and benefit of any church for the time being in connexion with the said General Consistory of the Dutch Reformed Church in Ceylon, with full power to sell, mortgage, lease, exchange, or otherwise dispose of and deal with the same.

**8.** The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of the president of the said general consistory for the time being (or in his absence the vice-president) and of either the treasurer or book-keeper thereof for the time being, 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.

Affixing of seal-

**9.** The said general consistory may from time to time make rules and when made, alter and amend the same as may appear to them necessary for the purpose of the exercise of their rights, powers, and duties in connexion with the property vested in them and as the supervising authority over local consistories and for the due administration by the local consistories of their respective churches. They may also, if they see fit, frame and adopt a constitution and a liturgy for the Dutch Reformed Church in Ceylon, and as occasion demands alter and amend the same, in consonance with the constitution and liturgy of the Dutch Reformed Church.

General power to make rules.

All property to be vested in the general consistory.

**7.** All moneys, goods, claims, actions, mortgages, and other securities for money, lands, and tenements being held in Sri

**10.** The power of the said general consistory to make rules hereunder as aforesaid shall include, without prejudice to

Special purposes for which rules may be made.

the generality of the powers hereby conferred, power to make rules for or with respect to all or any of the following purposes, namely:—

(1) Procedure, including—

(a) the regulation of general consistory and local consistory meetings ;

(b) the form in which estimates, budgets, statements, and returns incidental to the business of the general consistory or local consistories shall be drawn up;

(c) the form in which the accounts of the general consistory and local consistories shall be kept, and provision for the due auditing thereof;

(d) the filling of the offices of president, vice-president, treasurer, and book-keeper of the general consistory and any other offices.

(2) Ministers, including—

(a) the appointment and service of ministers from time to time, and the relation generally of ministers to local consistories and the general consistory;

(b) the stipends of ministers and provision therefor from the funds and property vested in the general consistory and from contributions made by or assessed upon congregations;

(c) the granting of leave of absence to ministers and supplying the place of absent ministers;

(d) the provision of pensions and gratuities to ministers, if so decided.

(3) Local consistories, including—

(a) the constitution and recognition of local consistories from time to time and the amalgamation or separation of such consistories;

(b) their responsibilities, rights, and duties;

(c) the fixing of the minimum number of members that shall comprise a local consistory (with provision for exceptional cases) and the conditions determining the number of members of local consistories in excess of such number;

(d) representation of local consistories on the general consistory.

(4) Members of consistory, including—

(a) the period of service of members of local consistories;

(b) the method of election by members of congregations for such service, the right to vote for such election, and the grounds of eligibility for election;

(c) the offices to be undertaken by members of the consistory and nomination thereto;

(d) provision for payment of officers (other than consistory members) and of servants and for pensions and gratuities to them, if so decided.

(5) Schools, including—

(a) their maintenance and management and the opening and maintenance of new schools;

(b) their finances in relation to the general consistory and to local consistories;

(c) payment of day-school teachers and provision for pensions and gratuities to them, if so decided.

(6) Societies, including—

their finances, management, and the direction and control of their activities and conduct.

(7) Charitable activities.

(8) Mission work.

(9) And all matters generally affecting the administration and welfare of the Dutch Reformed Church in Ceylon provided that nothing be done at variance with the doctrines and discipline of the Dutch Reformed Church.

repealed as from the date of coming into existence of the general consistory hereinbefore provided for and a copy of the minutes of the meeting of the said " Consistory of the Dutch Reformed Church at Wolfendahl, Colombo" at which the resolution referred to in section 3 hereof shall be passed\*, duly certified under the common seal of the said general consistory, shall be accepted as conclusive evidence of the coming into existence of the said general consistory and of the date thereof.

Matters not specially provided for.

**11.** In all matters including such as are not provided for by this Ordinance or by rules hereunder the decision of the general consistory shall be final subject, in ecclesiastical affairs, to the rights of the Presbytery of Ceylon.

**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.

Repeal.

**12.** Ordinance No. 12 of 1896 entitled "The Ordinance for Incorporating the Consistory of the Dutch Reformed Church at Wolfendahl, Colombo " is hereby

• Resolution passed on 8th January, 1927.

CHAPTER 173

DOMESTIC SERVANTS

Ordinances Nos. 28 of 1871, 18 of 1936.

AN ORDINANCE TO PROVIDE FOR THE REGISTRATION OF DOMESTIC SERVANTS.

[29 th December. 1871.]

Short title. 1. This Ordinance may be cited as the Registration of Domestic Servants Ordinance.

him with information as regards his age, country, previous service, and such other particulars as the Registrar may require.

Operation of Ordinance. 2. (1) This Ordinance shall come into operation in such towns or districts of Ceylon or Sri Lanka, and from such date or dates, as may from time to time be prescribed by the Minister by Order published in the Gazette.

6. The Registrar shall, on such servant so attending, hand to him a pocket register, in which shall be entered the particulars of his or her present engagement and such memorandum of previous service or antecedents of the applicant as he or she may desire to have recorded in the register:

Registrar to supply pocket register.

(2) The word " district" in this section includes any area the limits of which the Government Agent has defined under the provisions of section 13\* of the Police Ordinance, for the purpose of establishing a police force therein.

Provided that the Registrar shall not make any such antecedent entry without satisfying himself of the credibility of the statements tendered to him for entry.

Minister may appoint Registrar, who shall be under supervision of the Inspector-General of Police.

3. It shall be lawful for the Minister, from time to time as occasion may require, to appoint for Sri Lanka, or for any town or district in which this Ordinance may be brought into operation, a Registrar of Domestic Servants, who shall be under the general supervision and control of the Inspector-General of Police.

7. If any servant, returned by any master to the Registrar as provided for in section 4, shall leave the service of such master within three months of the coming into operation of this Ordinance and before obtaining his pocket register, such master shall transmit to the said Registrar a memorandum of date and cause of such servant quitting his employment.

Servants quitting employment before pocket registers supplied.

EXISTING SERVANTS

Masters to cause servants to be registered.

4. Within one month of this Ordinance coming into operation in any town or district, it shall be the duty of every employer of domestic servants to cause such servants in his employment to be registered in the register of servants for such town or district, and for this purpose he shall furnish to the Registrar in writing a list showing the names, capacity in which employed, and date of engagement of each of his servants.

To supply lists to Registrar.

Servants to attend personally.

5. It shall be the duty of every servant to attend personally within three months after the coming into operation of this Ordinance, before the Registrar, and furnish

INTENDING SERVANTS

8. It shall be the duty of the Registrar to receive applications from persons desirous to enter domestic service. He shall satisfy himself that there are reasonable grounds to believe such applicants to be fit and proper persons to enter domestic service ; and if so satisfied, shall register them in the general registry, recording what he has been able to learn respecting their antecedents, and the names of any persons who certify to their respectability. And he shall thereupon issue pocket registers to such applicants, which shall contain the particulars of the record in the general registry.

Applicants for domestic service.

\* Section 13 of the Police Ordinance has since been repealed by Act No. 2 of 1968.

Registrar may grant provisional registration.

9. If the applicant can produce no sufficient evidence as to his fitness for domestic service, the Registrar may grant provisional registration, to be thereafter converted into confirmed registration according to the result of subsequent service.

Provided that if for any reason he be unwilling to give the servant a character, or to state the cause of discharge, he may decline to do so; but in that case he shall furnish to the Registrar in writing his reasons for so refusing;

Registrar may refuse, but must report refusal to Inspector-General of Police.

10. If the Registrar be satisfied that the applicant is not a fit and proper person, he may withhold registration altogether; but it shall be his duty in such case to submit the same to the Inspector-General of Police for his approval.

Provided further that if the master be unable to enter the cessation of the engagement through failure of servant to produce pocket register, he shall report the fact to the Registrar.

Registration to be refused to convicted offenders, &c.

11. The Registrar shall not grant registration to any convicted thief or associate of thieves, or to any person known to the police to be leading a disorderly or disreputable life, or who shall have been convicted of any infamous crime :

15. Every servant shall, within fifteen days after the date of any entry in his pocket register, attend personally at the office of the Registrar of Servants, for the purpose of having such entry recorded in the general registry.

Servant to attend at office of Registrar for pocket register entries to be transferred to general registry.

Provided that the Registrar may grant registration to any person from whom it may have been so withheld, on application of any householder who may be willing to give such person a trial; provided that the Registrar is satisfied of the respectability of such householder, and that the intention to engage such person as a domestic servant is a bona fide one.

16. Where a servant has at any time been convicted by a court of any offence specified in the Schedule, it shall be lawful for the Registrar to enter particulars of such conviction in the pocket register of that servant. Every entry so made shall be authenticated by the signature of the Registrar who may, if he thinks fit, draw attention to such entry by one or more endorsements made in that pocket register in writing or by means of a rubber or other stamp.

Registrar authorized to enter convictions in pocket register of servants.

GENERAL REGULATIONS

Master shall not engage unregistered servant.

12. After the coming into operation of this Ordinance in any town or district, no master resident therein shall engage a servant who shall fail to produce his pocket register in evidence of his being registered, or whose pocket register shall not record the termination of his last previous service, if any.

17. It shall be the duty of every registered servant to produce his pocket register when called upon to do so by the police.

Servants to exhibit pocket registers to police.

Master to enter engagement in pocket register.

13. On engaging a servant, every master shall forthwith enter in the pocket register the date and capacity in which such servant is engaged, and shall cause the servant to attend personally at the Registrar's office, to have the entry inserted in the general registry.

18. Every servant registered under the provisions of this Ordinance shall, if he subsequently enter service in any place not under its operation, attend personally at the nearest police station on his entering or leaving such service, and produce his pocket register to the principal officer of police at such station; and the said officer of police shall record such commencement or termination of service, and communicate the same to the Registrar of Servants for the town or district in which such servant was originally registered.

Registered servants entering service in places not brought under Ordinance.

Master to enter discharge,

14. Every master who shall discharge a servant shall thereupon insert in the pocket register the date and cause of discharge and the character of the servant:

19. It shall be the duty of any employer of domestic servants not resident in any town or district under the operation of this Ordinance, who shall engage or discharge a

Masters in places not under Ordinance.

registered servant, forthwith to enter the engagement or discharge of such servant in the pocket register, in the manner prescribed in sections 13 and 14, relating to the engagement or discharge of servants in places brought within the operation of this Ordinance.

Duplicate pocket registers.

**20.** It shall be lawful to the Registrar to issue duplicate pocket registers to replace the originals, which may have become worn out, or which may have been lost or destroyed.

**PENALTIES**

Penalties.

**21.** The following penalties are hereby imposed for any of the following acts :—

*As respects Officers of the Registration Department:*

Carelessly injuring documents.

(1) Any officer of the registration department carelessly losing or injuring, or allowing to be lost or injured, any register book or other document while in his keeping, shall be held to be guilty of an offence, and be liable to a fine not exceeding two hundred rupees.

Corruptly injuring documents.

(2) Any officer of the registration department committing any of the following acts shall be held to be guilty of an offence, and be liable to imprisonment, with or without hard labour, for a period not exceeding three years, or to a fine not exceeding one thousand rupees, or to both :—

(a) wilfully destroying or injuring any register book or other document, or wilfully permitting or causing any such book to be destroyed or injured;

(b) falsely making or counterfeiting, or permitting or causing to be falsely made or counterfeited, any part of a register book or document;

(c) wilfully inserting or permitting, or causing to be inserted in any register book, or certified copy thereof, or document, any false entry;

(d) wilfully giving a false certified copy of a register book or document, or permitting or causing such false certified copy to be given;

(e) certifying any writing to be a copy or extract from a servant's register book, knowing the said portion so copied or extracted to be false in any part thereof.

*As respects such Officers and others:*

(3) Any officer of the registration department who shall on any pretext or under any circumstance, directly or indirectly collect or receive, and any person who shall offer or pay to such officer, any fee, gratuity, allowance, or recompense, other than he may be duly authorized to collect or receive, shall be held to be guilty of an offence, and be liable to a fine not exceeding two hundred rupees.

Registration officers who take unauthorized fees, and persons who offer such fees.

*As respects Masters:*

(4) Any master committing any of the following acts shall be held to be guilty of an offence, and be liable to a fine not exceeding twenty rupees:—

Master not fulfilling any duty or obligation imposed on him by this Ordinance.

(a) failing to furnish to the Registrar, within one month after this Ordinance shall have come into operation in any town or district, the list specified in section 4;

(b) failing to transmit to the Registrar a memorandum of the date of a servant quitting his employ, as required by section 7 •

- (c) engaging a servant, after this Ordinance shall have come into operation, who shall fail to produce his pocket register, or whose pocket register shall not record the termination of the last previous service, if any, as provided by section 12;
- (d) failing to enter in the pocket register the date and capacity in which a servant is engaged, as required by section 13;
- (e) failing to insert in such pocket register the date of a servant being discharged, and the cause of such discharge, as required by section 14;
- (f) declining to give his servant a character, and failing to furnish to the Registrar his reasons for so refusing;
- (g) engaging or discharging a registered servant in any town or district not under the operation of this Ordinance, without entering such engagement or discharge in the pocket register, as required by section 19.

*As respects Servants:*

- (5) Any servant committing any of the following acts shall be held to be guilty of an offence, and be liable to a fine not exceeding twenty rupees:—
  - (a) failing to attend the Registrar and furnish him with the information required by section 5;
  - (b) failing to produce his pocket register when requested to do so;
  - (c) having been once registered under the provisions of this Ordinance, and yet entering or leaving service thereafter in any place not under the operation of this Ordinance,

without having attended at the nearest police station, and producing his pocket register, as required by section 18.

- (6) Any servant who shall give false information on any matter in which he is required by this Ordinance to give information to the Registrar of Servants, or to any other person, shall be guilty of an offence, and be liable to a fine not exceeding fifty rupees, or to imprisonment with or without hard labour, for any term not exceeding three months.

Servants giving false information.

*As respects Others:*

- (7) Any person unconnected with the registration department committing any of the following acts shall be held to be guilty of an offence, and be liable to imprisonment, with or without hard labour, for a period not exceeding one year, or a fine not exceeding five hundred rupees, or both:—
  - (a) wilfully destroying or injuring any register book or document, or causing any such book or document to be destroyed or injured;
  - (b) falsely making or counterfeiting, or causing to be falsely made or counterfeited, any part of a register book or document;
  - (c) wilfully inserting or causing to be inserted in any register book or document, or certified copy thereof, any false entry;
  - (d) wilfully giving a false certified copy of a register book, or causing such certified copy to be given.

Other persons for injuring registration documents.

Servants not fulfilling any duty or obligation imposed upon them by this Ordinance.

**FEEES**

**22.** The following fees shall be levied under this Ordinance; such fees to be paid by masters or servants, or intending servants

Fees.



# DOMESTIC SERVANTS

[Cap.173]

in stamps, to be attached to the pocket register :—

Fee payable by master on causing an existing servant to be registered .. ..	Rs. c. 0 25
" by master on engaging a new servant . . . .	0 25
" by intending servant on provisional registration	0 25
" by intending servant on registration being confirmed .. ..	0 25
by servant for the registration of previous service or antecedents . .	0 25
" by servant for a duplicate pocket register . .	1 0

informers, and the remainder to a fund which shall be called "The Domestic Servants Registration Fund "; the said fund to be regulated in manner as the Minister, from time to time, shall direct.

**24.** The following words and expressions in this Ordinance shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction :—

" master" shall include every person having servants in his employ;

" servant" shall mean domestic servants, hired by the month or receiving monthly wages, and shall include head and under servants, female servants, cooks, coachmen, horse-keepers, and house and garden servants.

Appropriation of fines,

**23.** It shall be lawful for the court awarding a fine to direct that any sum not exceeding half thereof shall be paid to the

## SCHEDULE

[Section 16.]

<i>Enactment</i>	<i>Section</i>	<i>Nature of Offence</i>
The Penal Code	.. From 226 to 256 (inclusive)	• . Offences relating to Coin and Government Stamps
Do.	.. 296,297,300,301	.. Culpable homicide, Ac.
Do.	.. From 315 to 324 (inclusive)	.. Voluntarily causing hurt by dangerous weapons, &c.
Do.	.. 345	Use of criminal force to a woman with intent to outrage her modesty
Do.	.. From 354 to 360 (inclusive)	Kidnapping
Do.	.. 360A	Procuration
Do.	.. 364, 364A	Rape
Do.	.. 365	Unnatural offence
Do.	.. From 367 to 371 (inclusive)	Theft, theft of cattle, &c.
Do.	.. From 373 to 378 (inclusive)	Extortion, &c.
Do.	.. From 380 to 385 (inclusive)	Robbery, &c.
Do.	.. 386 and 387	Criminal misappropriation
Do.	.. From 389 to 392 (inclusive) but excluding 392A and 392B	Criminal breach of trust
Do.	.. From 394 to 397 (inclusive)	.. Dishonestly receiving stolen property
Do.	.. From 400 to 403 (inclusive)	.. Cheating
Do.	.. From 418 to 426 (inclusive)	.. Mischief, &c.
Do.	.. From 435 to 451 (inclusive)	.. House trespass, house-breaking, &c.

**Cap. 173]*****DOMESTIC SERVANTS***

<i>Enactment</i>	<i>Section</i>	<i>Nature of Offence</i>
The Penal Code	.. From 452 to 466 (inclusive)	.. Forgery, &c.
Do.	.. 467	.. Falsification of accounts
Do.	- . From 478A to 478D (inclusive)	.. Offences relating to counterfeiting currency notes or bank naira
Do.	.. 486	.. Criminal intimidation
Do.	.. 488	.. Misconduct in public by drunken person
Do.	.. 490	.. Attempting the breach of any of the sections above specified
Do.	.. 101, 113Aand 113B	.. Abetting or conspiring to commit any of the offences hereinbefore specified
The Vagrants Ordinance	All offences under the Ordinance.	

**CHAPTER 585**

**DEFENCE STATIONS**

Arts  
Nos.38 of 1954,  
22 of 1955.

AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT OF BOARDS OF CONTROL FOR THE ADMINISTRATION AND DEVELOPMENT OF AREAS IN OR IN THE VICINITY OF WHICH DEFENCE ESTABLISHMENTS ARE SITUATED.

[Not in operation on 31st December, 1980.]

Short title  
and date of  
operation.

1. This Act may be cited as the Defence Stations Act, and shall come into operation on such date\* as the Minister may appoint by Order published in the Gazette.

building or structure, or any place (notwithstanding that it is not developed by the erection of buildings or structures) used or maintained wholly or mainly by the Sri Lanka forces for purposes connected with the defence of Sri Lanka, and includes buildings provided for residence or use by members of the Sri Lanka forces.

**PART I**

**DECLARATION OF DEFENCE STATIONS  
AND ESTABLISHMENT OF  
BOARDS OF CONTROL**

Declaration  
of defence  
stations.

2. (1) Where the Minister is satisfied that the whole or a major part of the land in any area is land on which defence establishments are situated, the Minister may, after consultation with the Minister in charge of the subject of Local Government, by Order declare that the area, the limits of which shall be defined by the Order, shall be a defence station for the purposes of this Act.

(2) Any place in the vicinity of any area referred to in subsection (1) may be included in an area declared under that subsection to be a defence station.

(3) Every Order under subsection (1) shall be brought before Parliament for approval; and if so approved 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.

(4) The Minister shall, in an Order under subsection (1) establishing a defence station or by subsequent Order, assign a name to the board of control to be constituted for that station as hereinafter provided.

(5) In this section, "defence establishment" means any establishment,

3. (1) There shall be for each defence station a board of control consisting of— Board of control for defence stations.

(a) an officer (not below field rank) of that force the members of which in the opinion of the Minister will predominate in the station, such officer being appointed by the Minister upon the recommendation of the Commander of that Force;

(b) one officer to represent each force the members of which occupy the station, such officer being appointed by the Minister on the recommendation of the Commander of that force;

(c) an officer nominated by the appropriate authority referred to in subsection (6);

(d) the Assistant Commissioner of Local Government for the administrative region in which the station is situated;

(e) the medical officer of health for the area in which the station is situated;

\* Not in operation on 31st December, 1980.

- (f) the Executive Engineer for the area in which the station is situated ;
- (g) such other public officers as the Minister may consider necessary ;
- (h) not more than two other persons appointed by the Minister to represent the interests of civilians, if any, who are resident in the station but are not in the employment of the forces;
- (i) one person appointed by the Minister in consultation with the Minister in charge of the subject of Local Government to represent the interests of residents in the whole of the area immediately adjoining the station.

(2) The officer appointed under paragraph (a) of subsection (1) shall be the president of the board of control.

(3) Any person appointed under paragraph (h) or paragraph (i) of subsection (1) to be a member of a board of control shall vacate his office as such member if he is removed from office by the Minister acting in his discretion, or if he resigns from office by written communication addressed to the Minister.

(4) Any person appointed under paragraph (h) or paragraph (i) of subsection (1) to be a member of a board of control shall unless he earlier vacates the office under subsection (3) hold office for a period of three years from the date on which he commences to hold office ; any such person vacating office by effluxion of time shall be eligible for reappointment.

(5) There shall be for each board of control a secretary who shall be appointed by the Minister after consultation with the president of the board.

(6) For the purposes of subsection (1) (c), " appropriate authority ", in relation to any defence station situated in any administrative district within which the office of the Government Agent of the district is situated, means the Government Agent of that district.

4. Each board of control shall be a body corporate with perpetual succession and a

common seal and may sue or be sued by such name as may be assigned to it under section 2.

5. The president of a board of control shall be the chief executive officer of the board, and all executive acts and responsibilities which are by this Act or any other written law directed or empowered to be done or discharged by the board may, unless the contrary intention appears from the context, be done or discharged by the president:

Provided that the president in the exercise of his powers under this section (except as regards matters expressly committed to him) shall act in conformity with such resolutions as may, from time to time, be passed by the board.

6. The secretary of a board of control shall exercise, perform and discharge such powers, duties and functions as are conferred or imposed upon him by rules made by the Minister under this Act.

7. The president of the board of control for each defence station shall be ex officio a Justice of the Peace for the district within which that station is situated.

8. The president of a board of control shall preside at all meetings of the board. In the absence of the president from any meeting, the members present shall elect one of their number to preside at the meeting.

9. (1) The ordinary meetings of a board of control shall be held for the despatch of business upon such date or dates in every month as may be fixed by the president.

(2) The president of a board of control may convene a special meeting of the board whenever he may consider it desirable and shall convene a special meeting whenever so requested in writing by any two or more members of the board. Two days' notice of the day appointed for any such special meeting shall be given to, or left at the residence of, each member of the board.

10. (1) The quorum for the meetings of a board of control shall be one-third of the total number of the members or such other number as may be prescribed by the Minister by Order published in the Gazette.

Functions of president.

Functions of secretary.

President to be Justice of the Peace.

Presidency at meetings.

Meetings of a board of control, how and when convened.

Quorum. Powers of board of control to be vested in the majority.

Board to be a corporation.

(2) All acts whatsoever authorized or required by this Act or any other written law to be done by any board of control may and shall be decided upon and done by the majority of members present and voting at any duly convened meeting thereof, the members present being not less in number than the quorum prescribed by or under subsection(1).

(3) Where the votes of the members present at any meeting are equally divided in regard to any question, the president or other member presiding at the meeting shall, in addition to his own vote as a member, have a casting vote.

**11.** All acts, orders, and proceedings of a board of control shall be entered in a book to be kept by it for that purpose, and shall be signed by the president for the time being; and all such acts, orders and proceedings shall then be deemed and taken to be original acts, orders and proceedings. and any copy thereof or extract therefrom shall be admissible in evidence in any Court of Justice, provided that it purports to be signed and certified as a true copy or extract by the president or secretary of the board.

**12.** (1) A board of control may, from time to time, appoint committees consisting either of members of the board or partly of members of the board and partly of other persons resident in the defence station for which it is constituted, for the purpose of advising the board with reference to any of its powers, duties, or responsibilities, or any matter under the consideration of the board, and may from time to time, subject to such instructions or conditions as it may determine, delegate any of its powers or duties to such committees other than the power to raise any loan, to levy any rate or to impose any tax.

(2) For the purpose of any matter in which any board of control is jointly interested with any other board of control, or with any local authority or with any Government department, it may make arrangements by mutual consent with such other board or with such authority or department for the constitution of a joint committee, for the appointment of members of that other board or local authority or of officers of that department upon such joint

committee, and for the delegation to such joint committee of any of its powers or duties other than the power to raise any loan, to levy any rate, or to impose any tax.

**13.** Subject to the provisions of section 10 as to the quorum, nothing which is done or determined by a board of control, under this Act or any other written law, shall be or be deemed to be invalid by reason only of the fact that the full number of members prescribed for that board by section 3 has not been appointed or that any member was absent from the board or that there was any vacancy in the number of the members, at the time such thing was done or determined.

**14.** For the purposes of this Act, the Minister may, from time to time, by Order alter and redefine the limits of any defence station. Every such Order shall be brought before Parliament for approval; and if so approved 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 therein.

**15.** The Minister may by Order declare that any area declared to be a defence station by Order under section 2 shall cease to be a defence station. Every such Order shall be brought before Parliament for approval ; and if so approved 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 therein. The board of control constituted for that station shall be dissolved with effect from the date of the coming into force of that Order.

**PART II**

**FUNCTIONS AND POWERS**

**16.** The board of control constituted for each defence station shall, subject to the powers reserved to or vested in any department of Government or officer thereof by any other written law (not being written law specified or referred to in section 17 of this Act), be within the limits of the station charged with the regulation, control and administration of all matters relating to the public health, public utility services and public thoroughfares and generally with the protection and promotion of the comfort, convenience and welfare of the residents and the amenities of the station.

Acts of boards of control not to be invalidated by vacancies or absence of members.

Alteration of limits of defence stations.

Dissolution of boards of control.

General powers and responsibilities.

Minutes of proceedings of board of control to be entered in a book.

Committees.

Application in defence stations of Urban Councils Ordinance and other laws.

17. For the purpose of enabling and empowering the board of control for any defence station to exercise and perform the powers, functions, and responsibilities assigned to it by section 16. the provisions of the Urban Councils Ordinance specified in the Schedule to this Act and the provisions of any other written law conferring or imposing powers, functions and duties on Urban Councils shall, subject as hereinafter provided, apply to and in relation to the board of control and the area declared to be a defence station in all respects and in like manner as those provisions apply to and in relation to an Urban Council and the town for which it is constituted ; and for the purposes of the application of those provisions, every reference therein to an Urban Council, to the Chairman of the Council, to a member of the Council, to the secretary of the Council, to the Commissioner, to any other officer or servant of the Council, or to a town, shall be construed to include a reference, as the case may be. to the board of control, to the president of the board, to a member of the board, to the secretary of the board, to the Secretary to the Ministry charged with the subject of Defence, to an officer or servant of the board, or to the defence station :

Provided, however, that the Minister may, by Order published in the Gazette, declare that any such provision as may be specified in the Order shall not apply to and in relation to a board of control and the area declared to be a defence station or shall apply subject to such modifications as may be specified in the Order; and every such Order shall come into force on such date as may be specified therein.

References to Minister.

18. For the purposes of the application of the Urban Councils Ordinance or any written law referred to in section 17 to and in relation to a board of control and the area declared to be a defence station, every reference therein to the Minister shall be construed to be a reference to the Minister in charge of the subject of Defence.

Arrangements with Government departments. &c.

19. For the purpose of exercising and performing the powers, functions and responsibilities assigned to it by or under this Act, the board of control for any defence station may make contracts or other arrangements for that purpose with Government departments, local authorities and any other person or body of persons.

PART III

MISCELLANEOUS

20. For the purposes of this Act, the Minister, by Order published in the Gazette, may issue all such directions as he may deem necessary with a view to providing for any unforeseen or special circumstances, or to determining or adjusting any question or matter, for the determination or adjustment of which no provision or no effective provision is made by this Act or the provisions of this Act or any other written law as applied by this Act to boards of control and defence stations require to be modified or supplemented.

Adjustment of questions not provided for.

21. The area within the limits of a defence station or any part of such area shall not be included within the limits of any Municipality, town or village area, notwithstanding anything in any other written law.

Defence stations not to be included within limits of Municipalities, &c.

22. (1) Where the area within the administrative limits of any Municipal Council, Urban Council, Town Council or Village Council is included within the limits of a defence station as defined by Order under section 2. that area shall cease to be a Municipality or town or village area with effect from the date on which that Order comes into force, and accordingly that Council shall be dissolved with effect from the aforesaid date, notwithstanding anything in any other written law.

Dissolution of local authorities in defence stations.

(2) Where only a part of the area within the administrative limits of any Municipal Council, Urban Council, Town Council or Village Council is included within the limits of any defence station as defined by Order under section 2, that part of such area shall cease to form part of a Municipality, town or village area with effect from the date on which that Order comes into force.

(3) Every by-law which has been or is deemed to have been made by any local authority dissolved by subsection (1) and which is in force at the date of dissolution of that authority shall continue in force as though it were a by-law made by the board of control which is its successor under the appropriate provision of the Urban Councils Ordinance as applied to that board by or under this Act and may be amended or rescinded by by-law made by the board under that provision.

(4) Where only a part of the area within the administrative limits of a local authority ceases, by virtue of subsection (2), to form part of that area with effect from any date, every by-law which has been or is deemed to have been made by that authority and which is in force at that date shall continue in force in that part as though it were a by-law made by the board of control which is its successor under the appropriate provision of the Urban Councils Ordinance as applied to that board by or under this Act and may be amended or rescinded by by-law made by the board under that provision.

(5) For the purposes of the application in any defence station of any by-laws referred to in subsections (3) and (4), every reference therein to any local authority of which the board is the successor, to the Chairman or Mayor of that authority, to a member of that authority, to the secretary of that authority, to the Commissioner, to any other officer or servant of that authority, or to the area of that authority, shall be construed to include a reference, as the case may be, to the board of control for that station, to the president of the board, to a member of the board, to the secretary of the board, to the Secretary to the Ministry charged with the subject of Defence, to an officer or servant of the board, or to the defence station.

(6) Where—

- (a) any local authority is dissolved under subsection (1); or
- (b) a part of the area within the administrative limits of any local authority ceases to form part of the area of that authority under subsection (2); or
- (c) any board of control is dissolved under section 15 ; or
- (d) the limits of any defence station are altered and redefined under section 14,

the Minister may, after consultation with the Minister in charge of the subject of Local Government, by Order published in

the Gazette make such provision as he may deem necessary by reason of such dissolution, cessation or alteration and redefinition, being provision of substantially the same nature as is contained in sections 236 (2) to 245 of the Urban Councils Ordinance.

**23.** In the discharge of its functions and the exercise of its powers a board of control shall be subject to, and act in accordance with, such general or special directions as the Minister may, from time to time, issue.

Minister's directions to a board of control.

**24.** In this Act unless the context otherwise requires—

Interpretation.

" board of control " means a board of control established under section 3 ;

" Sri Lanka forces " means the Sri Lanka Army, the Sri Lanka Navy or the Sri Lanka Air Force;

" defence station " means any area declared to be a defence station under section 2;

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

" Municipality " has the same meaning as in the Municipal Councils Ordinance;

" Municipal Council " means a Municipal Council constituted or deemed to have been constituted for any Municipality under the Municipal Councils Ordinance;

"town " means any area declared to be a town under the Town Councils Ordinance or the Urban Councils Ordinance;

" village area " has the same meaning as in the Village Councils Ordinance; and

" Village Council " means a Village Council constituted for any village area under the Village Councils Ordinance.

SCHEDULE

PROVISIONS OF URBAN COUNCILS ORDINANCE

Sections 32 to 183, 185 to 230, 232, 233, 234, 235, 244, 249 and the First to the Sixth Schedules.

**CHAPTER 452**

**DEV SUWA SEVAWA**

*Law* A LAW TO INCORPORATE A SOCIETY CALLED THE DEV SUWA SEVAWA,  
 No. 16 of 1975.

[17th March, 1975]

Short title. **1.** This Law may be cited as the Dev Suwa Sevawa (Incorporation) Law, (b) in a charitable manner, to help to restore the wholeness of man,

Incorporation of the Dev Suwa Sevawa. **2.** From and after the date of the commencement of this Law, such number of persons as now are members of the Society known as Dev Suwa Sevawa (hereinafter in this Law referred to as "the Society") or shall hereafter be admitted members of the Corporation hereby constituted, shall be and become a Corporation with continuance for ever under the name of "The Dev Suwa Sevawa" (hereinafter in this Law referred to as "the Corporation") and by that name may sue and be sued in all courts. **5.** 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 for the time being of the Corporation, with full power to sell, mortgage, lease, exchange or otherwise dispose of the same. Power of the Corporation to hold property.

Common seal. **3.** The Corporation shall have full power and authority to have and use a common seal and alter such seal at its pleasure. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of the President, Secretary and another member 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. **6.** 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. General powers of the Corporation.

General objects of the Corporation. **4.** The general objects of the Corporation shall be to preach the Gospel of Jesus Christ, with special emphasis on His Healing Ministry, and for such purpose, among other activities,— **7.** All the debts and liabilities of the aforesaid Society existing on the date of the commencement of this Law, shall be paid by the Corporation hereby constituted, and all debts due to and subscriptions due and payable to the said Society on the date of the commencement of this Law shall be paid to the Corporation hereby constituted. Debts, *See.*, due by and to the Society to be payable by and to the Corporation-

(a) to establish charitable homes for—

- (i) the caring, relieving and healing of people who are sick in body, mind and spirit; and
  - (ii) the rescuing of drug addicts and alcoholics from addiction to drugs and alcohol; and
- 8.** The affairs of the Corporation shall, subject to the rules for the time being in force, be managed by the Committee of the Corporation consisting of the President, the Secretary, the Treasurer and nine other members to be elected in accordance with the rules of the Corporation. Management of the affairs of the Corporation,



Rules of the Corporation.

**9.** (1) The rules of the Society in force on the date of commencement of this Law shall be the first rules of the Corporation.

(2) It shall be lawful for the 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,

**10.** All members of the Corporation shall be subject to the rules of Corporation for the time being in force.

Members to be subject to the rules.

**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 others claiming by, from, or under them.

Saving of the rights of the Republic and others.

**CHAPTER 425**

**DHARMACHAKRA VIDYAPITHA SABHA**

Law  
No. 21 of 1978.

A LAW TO INCORPORATE THE DHARMACHAKRA VIDYAPITHA SABHA.

[22nd June, 1978]

Short title.

**1.** This Law may be cited as Dharmachakra Vidyapitha Sabha Law.

(e) the promotion of unity and co-operation among Buddhists;

Incorporation  
of the  
Dharmachakra  
Vidyapilha  
Sabha.

**2.** From and after the date of commencement of this Law, such and so many persons as now are members of the Dharmachakra Vidyapitha Sabha (hereinafter referred to as "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 " Dharmachakra Vidyapitha Sabha ", 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 its pleasure.

(f) the advancement and development of the physical and intellectual development and culture of the Buddhists;

(g) the establishment, development and maintenance of institutions under the Corporation or jointly with any other body or independently of the Corporation, for the achievement of the aims and objects of the Corporation;

(h) the taking of all other steps that are necessary and desirable for the promotion of the above-mentioned aims and objects.

General objects  
of the  
Corporation.

**3.** The general objects for which the Corporation is constituted are hereby declared to be—

(a) the study and research into Buddhism in its totality of theory, practice and insight (*pariyatti*, *patipatti* and *pativedha*);

(b) the development, encouragement and extension of the study and practice of Buddhism;

(c) the advancement and propagation of knowledge and practice of Buddhism to all parts of the world ;

(d) the carrying out, development or extension of any existing or future scheme of Buddhist activity or any activity to help the development or extension of Buddhism in any part of the world;

**4.** (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation, be administered by a Council of Management consisting of such number of persons to be elected in accordance with the rules in force for the time being of the Corporation.

Councils of  
Management

(2) The first Council of Management of the Corporation shall be the members of the Council of Management of the Association holding office on the date of commencement of this Law.

**5.** (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 admission, withdrawal or expulsion of members; for the conduct of the duties of the Council of Management and of the various officers, agents and servants of the

Rules of the  
Corporation

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, 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 rescinded except by a vote of two-thirds of the members present and voting at a general meeting of the Corporation:

Provided, however, that such alteration, addition, amendment or rescission shall have been approved by the Council of Management.

(3) 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.

(4) All members of the Corporation shall be subject to the rules in force for the time being of the Corporation.

Debts due by, and payable to, the Association.

6. 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 seal of the Corporation is to be affixed,

7. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of two of the

members of the Council 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.

8. 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 property, movable and immovable.

9. It shall be lawful for the Corporation to raise funds for the accomplishment of its objects and for such purpose to create, execute, grant or issue any mortgages, bonds or obligations:

Borrowing powers

Provided that the aggregate of the amounts which may be so raised by the Corporation shall not exceed the sum determined by the Council of Management.

10. The Corporation shall reimburse any member, officer, agent or servant of the Corporation to the extent of payments bona fide made by such member, officer, agent or servant of the Corporation, on behalf of the Corporation and for its benefit.

Reimbursement

11. Nothing in this Law contained shall prejudice or affect the rights of the Republic, 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 rights of the Republic and others.

CHAPTER 21  
EVIDENCE

*Ordinances:*  
Nos. 14 of 1895,  
15 of 1904,  
16 of 1925,  
25 of 1927,  
18 of 1928,  
1 of 1946.

AN ORDINANCE TO CONSOLIDATE, DEFINE, AND AMEND THE LAW OF EVIDENCE.

[1st January, 1896.]

*Act*  
Nos. 3 of 1961.

**PART I**  
*RELEVANCY OF FACTS*  
**CHAPTER 1**  
**PRELIMINARY**

One fact is said to be relevant to another when the one is connected with the other in any of the ways referred to in the provisions of this Ordinance relating to the relevancy of facts. Relevant.

Short title. **1.** This Ordinance may be cited as the Evidence Ordinance.

" Facts in issue " means and includes- Facts in issue.

Extent. **2.** (1) This Ordinance shall apply to all judicial proceedings in or before any court other than courts-martial, but not to proceedings before an arbitrator.

any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature, or extent of any right, liability, or disability, asserted or denied in any suit or proceeding, necessarily follows.

Repeal. (2) All rules of evidence not contained in any written law so far as such rules are inconsistent with any of the provisions of this Ordinance, are hereby repealed.

*Explanation.* -Whenever, under the provisions of the law for the time being in force relating to Civil Procedure, any court records an issue of fact, the fact to be asserted or denied, in the answer to such issue, is a fact in issue,

Interpretation. **3.** In this Ordinance the following words and expressions are used in the following senses, unless a contrary intention appears from the context :-

*Illustrations*

A is accused of the murder of B. At his trial the following facts may be in issue:-

" court " includes all Judges and Magistrates, and all persons, except arbitrators, legally authorized to take evidence.

That A caused B's death.

That A intended to cause B's death.

That A had received grave and sudden provocation from B.

" fact " means and includes  
(a) any thing, state of things, or relation of things capable of being perceived by the senses;

That A, at the time of doing the act which caused B's death, was, by reason of unsoundness of mind, incapable of knowing its nature.

(b) any mental condition of which any person is conscious.

" Document " means any matter expressed or described upon any substance by means of letters, figures, or marks or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter. Document.

*Illustrations*

(a) That there are certain objects arranged in a certain order in a certain place is a fact.

(b) That a man heard or saw something is a fact.

(c) That a man said certain words is a fact.

(d) That a man holds a certain opinion, has a certain intention, acts in good faith or fraudulently, or uses a particular word in a particular sense, or is or was at a specified time conscious of a particular sensation, is a fact.

(e) That a man has a certain reputation, is a fact.

*Illustrations*

A writing is a document.

Words printed, lithographed, or photographed are documents.

A map or plan is a document.

An inscription on a metal plate or stone is a document.

A caricature is a document.

Evidence. " Evidence " means and includes-

(a) all statements which the court permits or requires to be made before it by witnesses in relation to matters of fact under inquiry ; such statements are called oral evidence ;

(b) all documents produced for the inspection of the court ; such documents are called documentary evidence.

Proved. A fact is said to be proved when, after considering the matters before it, the court either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.

Disproved. A fact is said to be disproved when, after considering the matters before it, the court either believes that it does not exist, or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist.

Not proved. A fact is said not to be proved when it is neither proved nor disproved.

May presume. 4. (1) Whenever it is provided by this Ordinance that the court may presume a fact, it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it.

Shall presume. (2) Whenever it is directed by this Ordinance that the court shall presume a fact, it shall regard such fact as proved unless and until it is disproved.

Conclusive proof. (3) When one fact is declared by this Ordinance to be conclusive proof of another, the court shall on proof of the one fact regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it.

**CHAPTER II**

**OF THE RELEVANCY OF FACTS**

Evidence may be given of facts in issue and relevant facts. 5. Evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue, and of such other facts as are hereinafter declared to be relevant and of no others.

*Explanation.*-This section shall not enable any person to give evidence of a fact which he is disentitled to prove by any provision of the law for the time being in force relating to Civil Procedure.

*Illustrations*

(a) A is tried for the murder of B by beating him with a club with the intention of causing his death.

At A's trial the following facts are in issue :-

- A's beating B with the club ;
- A's causing B's death by such beating ;
- A's intention to cause B's death.

(b) A, a party to a suit, does not comply with a notice given by B, the other party, to produce for B's inspection a document referred to in A's pleadings. This section does not enable A to put such document in evidence on his behalf in such suit. otherwise than in accordance with the conditions prescribed by section 104 of the Civil Procedure Code.

6. Facts which though not in issue are so connected with a fact in issue as to form part of the same transaction are relevant, whether they occurred at the same time and place or at different times and places.

Relevancy of facts forming part of same transaction.

*Illustrations*

(a) A is accused of the murder of B by beating him. Whatever was said or done by A or B or the bystanders at the beating, or so shortly before or after it as to form part of the transaction is a relevant fact.

(b) A is accused of waging war against the Republic by taking part in an armed insurrection in which property is destroyed, troops are attacked, and jails are broken open. The occurrence of these facts is relevant as forming part of the general transaction, though A may not have been present at all of them.

(c) A sues B for a libel contained in a letter forming part of a correspondence. Letters between the parties relating to the subject out of which the libel arose and forming part of the correspondence in which it is contained are relevant facts, though they do not contain the libel itself.

(d) The question is, whether certain goods ordered from B were delivered to A. The goods were delivered to several intermediate persons successively. Each delivery is a relevant fact.

7. Facts which are the occasion, cause, or effect, immediate or otherwise, of relevant facts, or facts in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction, are relevant.

Facts which are the occasion, cause, or effect of facts in issue.

*Illustrations*

- (a) The question is, whether A robbed B.  
The facts that shortly before the robbery B went to a fair with money in his possession, and that he showed it, or mentioned the fact that he had it, to third persons, are relevant.
- (b) The question is, whether A murdered B.  
Marks on the ground, produced by a struggle at or near the place where the murder was committed, are relevant facts.
- (c) The question is, whether A poisoned B.  
The state of B's health before the symptoms ascribed to poison, and habits of B, known to A, which afforded an opportunity for the administration of poison, are relevant facts.

Motive or preparation.

**8. (1)** Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.

Previous or subsequent conduct.

(2) The conduct of any party, or of any agent to any party, to any suit or proceeding in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.

*Explanation 1.*-The word "conduct" in this section does not include statements, unless those statements accompany and explain acts other than statements, but this explanation is not to affect the relevancy of statements under any other section of this Ordinance.

*Explanation 2.*-When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant

*Illustrations*

- (a) A is tried for the murder of B.  
The facts that A murdered C, that B knew that A had murdered C, and that B had tried to extort money from A by threatening to make his knowledge public, are relevant.
- (b) A sues B upon an instrument for the payment of money. B denies the making of the instrument.  
The fact that at the time when the instrument was alleged to be made B required money for a particular purpose, is relevant.
- (c) A is tried for the murder of B by poison.  
The fact that before the death of B, A procured poison similar to that which was administered to B, is relevant.
- (d) The question is, whether a certain document is the will of A.

The facts that not long before the date of the alleged will A made inquiry into matters to which the provisions of the alleged will relate, that he consulted attorneys-at-law in reference to making the will, and that he caused drafts of other wills to be prepared, of which he did not approve, are relevant.

(e) A is accused of a crime.

The facts that either before or at the time of, or after the alleged crime, A provided evidence which would tend to give to the facts of the case an appearance favourable to himself, or that he destroyed or concealed evidence, or prevented the presence or procured the absence of persons who might have been witnesses, or suborned persons to give false evidence respecting it, are relevant.

(f) The question is, whether A robbed B.

The facts that after B was robbed C said in A's presence, "the police are coming to look for the man who robbed B", and that immediately afterwards A ran away, are relevant

(g) The question is, whether A owes B Rs. 10,000.

The facts that A asked C to lend him money, and that D said to C in A's presence and hearing, "I advise you not to trust A, for he owes B 10,000 rupees", and that A went away without any answer, are relevant facts.

(h) The question is whether A committed a crime.

The fact that A absconded after receiving a letter warning him that inquiry was being made for the criminal, and the contents of the letter, are relevant.

(i) A is accused of a crime.

The facts that after the commission of the alleged crime he absconded, or was in possession of property or the proceeds of property acquired by the crime, or attempted to conceal things which were or might have been used in committing it, are relevant

(j) The question is, whether A was ravished.

The fact that shortly after the alleged rape she made a complaint relating to the crime, the circumstances under which and the terms in which the complaint was made, are relevant

The fact that, without making a complaint, she said that she had been ravished, is not relevant under this section, though it may be relevant as a dying declaration under section 32, subsection (1), or as corroborative evidence under section 157.

(k) The question is, whether A was robbed.

The fact that soon after the alleged robbery he made a complaint relating to the offence, the circumstances under which and the terms in which the complaint was made, are relevant.

The fact that he said he had been robbed without making any complaint, is not relevant under this section though it may be relevant as a dying declaration under section 32, subsection (1), or as corroborative evidence under section 157.

Facts necessary to explain or introduce relevant facts.

9. Facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact, or which establish the identity of anything or person whose identity is relevant, or fix the time or place at which any fact in issue or relevant fact happened, or which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose.

Illustrations

(a) The question is, whether a given document is the will of A. The state of A's property and of his family at the date of the alleged will may be relevant facts.

(b) A sues B for a libel imputing disgraceful conduct to A. B affirms that the matter alleged to be libellous is true.

The position and relations of the parties at the time when the libel was published may be relevant facts as introductory to the facts in issue. The particulars of a dispute between A and B about a matter unconnected with the alleged libel are irrelevant, though the fact that there was a dispute may be relevant if it affected the relations between A and B.

(c) A is accused of a crime. The fact that soon after the commission of the crime A absconded from his house, is relevant, under section 8, as conduct subsequent to and affected by facts in issue.

The fact that at the time when he left home he had sudden and urgent business at the place to which he went, is relevant, as tending to explain the fact that he left home suddenly,

The details of the business on which he left are not relevant, except in so far as they are necessary to show that the business was sudden and urgent.

(d) A sues B for inducing C to break a contract of service made by him with A. C, on leaving A's service, says to A, " I am leaving you because B has made me a better offer ". This statement is a relevant fact as explanatory of C's conduct, which is relevant as a fact in issue.

(e) A, accused of theft, is seen to give the stolen property to B, who is seen to give it to A's wife. B says, as he delivers it, " A says you are to hide this ". B's statement is relevant, as explanatory of a fact which is part of the transaction.

(f) A is tried for a riot, and is proved to have marched at the head of a mob. The cries of the mob are relevant as explanatory of the nature of the transaction.

10. Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done, or written by any one of such person's in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to be so conspiring, as well for the purpose of proving the existence of the conspiracy as for the purpose of showing that any such person was a party to it.

Things said or done by conspirator in reference to common intention.

Illustration

Reasonable ground exists for believing that A has joined in a conspiracy to wage war against the Republic.

The facts that B procured arms in Europe for the purpose of the conspiracy, C collected money in Colombo for a like object, D persuaded persons to join the conspiracy in Kandy, E published writings advocating the object in view at Galle, and F transmitted from Kalutara to G at Negombo the money which C had collected at Colombo, and the contents of a letter written by H giving an account of the conspiracy, are each relevant, both to prove the existence of the conspiracy and to prove A's complicity in it, although he may have been ignorant of all of them. and although the persons by whom they were done were strangers to him, and although they may have taken place before he joined the conspiracy or after he left it.

11. Facts not otherwise relevant are relevant-

When facts not otherwise relevant are relevant.

(a) if they are inconsistent with any fact in issue or relevant fact;

(b) if by themselves or in connection with other facts they make the existence or non-existence of any fact in issue or relevant fact highly probable or improbable.

Illustrations

(a) The question is, whether A committed a crime at Colombo on a certain day.

The fact that on that day A was at Galle is relevant. The fact that near the time when the crime was committed A was at a distance from the place where it was committed, which would render it highly improbable, though not impossible, that he committed it, is relevant.

(b) The question is, whether A committed a crime. The circumstances are such that the crime must have been committed either by A, B, C, or D. Every fact which shows that the crime could have been committed by no one else, and that it was not committed by either B, C, or D, is relevant.

In suits for damages facts tending to enable court to determine amount are relevant.

Facts relevant when right or custom is in question.

**12.** In suits in which damages are claimed, any fact which will enable the court to determine the amount of damages which ought to be awarded is relevant.

**13.** Where the question is as to the existence of any right or custom the following facts are relevant :-

- (a) any transaction by which the right or custom in question was created, claimed, modified, recognized, asserted, or denied, or which was inconsistent with its existence ;
- (b) particular instances in which the right or custom was claimed, recognized, or exercised, or in which its exercise was disputed, asserted, or departed from.

*Illustration*

The question is, whether A has a right to a fishery. A deed conferring the Fishery on A's ancestors, a mortgage of the fishery by A's father, a subsequent grant of the Fishery by A's father irreconcilable with the mortgage, particular instances in which A's father exercised the right, or in which the exercise of the right was stopped by A's neighbours, are relevant facts.

Facts showing existence of state of mind or of body, or bodily feeling.

**14.** Facts showing the existence of any state of mind-such as intention, knowledge, good faith, negligence, rashness, ill-will or good-will towards any particular person, or showing the existence of any state of body or bodily feeling-are relevant, when the existence of any such state of mind, or body, or bodily feeling is in issue or relevant.

*Explanation 1.*-A. fact relevant as showing the existence of a relevant state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question.

*Explanation 2.* -But where, upon the trial of a person accused of an offence, the previous commission by the accused of an offence is relevant within the meaning of this section, the previous conviction of such person shall also be a relevant fact.

*Illustrations*

- (a) A n accuaed of receiving stolen goods knowing them to be stolen. It is proved that he was in poMettion of a particular itolco/article. Toe fact that at the same time he was in possession of many other stolen articles is relevant, as tending to show that he knew each and all of the articles of which he was in powaion to be stolen.
- (6) A is accused of fraudulently delivering to another penoo a counterfeit coin which, at the time when he delivered it, he knew to be counterfeit

The fact that at the time of its delivery A was possessed of a number of other pieces of counterfeit coin is relevant.

The fact that A had been previously convicted of delivering to another person as genuine a counterfeit coin knowing it to be counterfeit is relevant

(c) A sues B for damage done by a dog of B's which B knew to be ferocious.

The facts that the dog had previously bitten X, Y, and Z, and that they had made complaints to B, are relevant

(d) The question is whether A, the acceptor of a bill of exchange, knew that the name of the payee was fictitious.

The fact that A had accepted other bills drawn in the same manner before they could have been transmitted to him by the payee, if the payee had been ft real person, is relevant, as showing that A knew that the payee was a fictitious person.

(e) A is accused of defaming B by publishing an imputation intended to barm the reputation of B.

The fact of previous publication by A respecting B, showing ill-will on the part of A towards B, is relevant, as proving A's intention to harm B's reputation by the particular publication in question.

The facts that there was no previous quarrel between A and B, and that A repeated the matter complained of as he heard it, are relevant, as showing that A did not intend to harm the reputation of B.

(f) A is sued by B for fraudulently representing to B that C was solvent, whereby B, being induced to trust C, who was insolvent, suffered loss.

The fact that at the time when A represented C to be solvent, C was supposed to be solvent by his neighbours and by persons dealing with him, is relevant, as showing that A made the representation in good faith.

(g) A is sued by B for the price of work done by B upon a house of which A is owner, by the order of C, a contractor. A's defence is that B's contract was with C.

The fact that A paid C for the work in question is relevant, as proving that A did in good faith make over to C the management of the work in question, so that C was in a position to contract with B on C's own account, and not as agent for A.

(h) A is accused of the dishonest misappropriation of property which he had found, and the question is whether, when he appropriated it, he believed in good faith that the real owner could not be found. The fact that public notice of the locs of the property had been given in the place where A was, is relevant, as showing that A did not in good faith believe that the real owner of the property could not be found.

The fact that A knew, or had reason to believe, that the notice was given fraudulently by C, who had heard of the loss of the property and



wished to set up a false claim to it, is relevant as showing that the fact that A knew of the notice did not disprove A's good faith.

(i) A is charged with shooting at B with intent to kill him. In order to show A's intent, the fact of A having previously shot at B may be proved.

(j) A is charged with sending threatening letters to B—Threatening letters previously sent by A to B may be proved as showing the intention of the letters.

(k) The question is, whether A has been guilty of cruelty towards B, his wife.

Expressions of their feeling towards each other shortly before or after the alleged cruelty are relevant facts.

(l) The question is, whether A's death was caused by poison.

Statements made by A during his illness as to his symptoms are relevant facts.

(m) The question is, what was the state of A's health at the time when an assurance on his life was effected.

Statements made by A as to the state of his health at or near the time in question are relevant facts.

(n) A sues B for negligence in providing him with a carriage for hire not reasonably fit for use, whereby A was injured.

The fact that B's attention was drawn on other occasions to the defect of that particular carriage is relevant.

The fact that B was habitually negligent about the carriages which he let to hire is irrelevant.

(o) A is tried for the murder of B by intentionally shooting him dead.

The fact that A, on other occasions, shot at B is relevant, as showing his intention to shoot B.

The fact that A was in the habit of shooting at people with intent to murder them is irrelevant—

(p) A is tried for a crime.

The fact that he said something indicating an intention to commit that particular crime is relevant.

The fact that he said something indicating a general disposition to commit crimes of that class is irrelevant

**15.** When there is a question whether an act was accidental or intentional, or done with a particular knowledge or intention, the fact that such act formed part of a series of similar occurrences, in each of which the person doing the act was concerned, is relevant.

*Illustrations*

(a) A is accused of burning down his house in order to obtain money for which it is insured.

The facts that A lived in several houses successively, each of which he insured, in each of which a fire occurred, and after each of which fires A received payment from a different insurance office, are relevant as tending to show that the fires were not accidental.

(b) A is employed to receive money from the debtors of B. It is A's duty to make entries in a book showing the amounts received by him. He makes an entry showing that on a particular occasion he received less than he really did receive—

The question is, whether this false entry was accidental or intentional.

The facts that other entries made by A in the same book are false, and that the false entry is in each case in favour of A, are relevant—

(c) A is accused of fraudulently delivering to B a counterfeit rupee.

The question is, whether the delivery of the rupee was accidental.

The facts that soon before or soon after the delivery to B, A delivered counterfeit rupees to C, D, and E, are relevant, as showing that the delivery to B was not accidental.

**16.** When there is a question whether a particular act was done, the existence of any course of business, according to which it naturally would have been done, is a relevant fact.

Existence of course of business, when relevant.

*Illustrations*

(a) The question is, whether a particular letter was despatched.

The facts that it was the ordinary course of business for all letters put in a certain place to be carried to the post, and that that particular letter was put in that place, are relevant

(b) The question is, whether a particular letter reached A.

The facts that it was posted in due course and was not returned through the dead letter office are relevant.

**ADMISSIONS AND CONFESSIONS**

**17.** (1) An admission is a statement, oral or documentary, which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons and under the circumstances hereinafter mentioned.

Admissions defined.

(2) A confession is an admission made at any time by a person accused of an offence stating or suggesting the inference that he committed that offence.

Confession defined.

**18.** (1) Statements made by a party to the proceeding, or by an agent to any such party, whom the court regards, under the circumstances of the case, as expressly or impliedly authorized by him to make them, are admissions.

Admission by party to proceeding, or his agent;

Facts bearing on question whether act was accidental or intentional.

by suitor in representative character;

(2) Statements made by parties to suits suing or sued in a representative character are not admissions, unless they were made while the party making them held that character.

(3) Statements made by-

by party interested in subject matter;

(a) persons who have any proprietary or pecuniary interest in the subject-matter of the proceeding, and who make the statement in their character of persons so interested; or

by person from whom interest derived.

(b) persons from whom the parties to the suit have derived their interest in the subject-matter of the suit,

are admissions if they are made during the continuance of the interest of the persons making the statements.

Admissions by persons whose position must be proved as suit.

**19.** Statements made by persons whose position or liability it is necessary to prove as against any party to the suit are admissions if statements would be relevant as against such persons in relation to such position or liability in a suit brought by or against them, and if they are made whilst the person making them occupies such position or is subject to such liability.

*Illustrations*

- A undertakes to collect rents for B.
- B sues A for not collecting rent due from C to B.
- A denies that rent was due from C to B,
- A statement by C that he owed B rent is an admission, and is a relevant fact as against A, if A denies that C did owe rent to B.

Admissions by persons expressly referred to by party to suit.

**20.** Statements made by persons to whom a party to the suit has expressly referred for information in reference to a matter in dispute, are admissions.

*Illustration*

- The question is, whether a horse sold by A to B is sound.
- A says to B, " Go and ask C; C knows all about it".
- C's statement is an admission.

Proof of admissions against the person who makes them or his representative in interest.

**21.** Admissions are relevant and may be proved as against the person who makes them. or his representative in interest; but they cannot be proved by or on behalf of the person who makes them or by his representative in interest, except in the following cases :-

(a) an admission may be proved by or on behalf of the person making it when

it is of such a nature that, if the person making it were dead, it would be relevant as between third persons under section 32 ;

(b) an admission may be proved by or on behalf of the person making it when it consists of a statement of the existence of any state of mind or body, relevant or in issue, made at or about the time when such state of mind or body existed, and is accompanied by conduct rendering its falsehood improbable;

(c) an admission may be proved by or on behalf of the person making it if it is relevant otherwise than as an admission.

*Illustrations*

(a) The question between A and B is, whether a certain deed is or is not forged. A affirms that it is genuine, B that it is forged.

A may prove a statement by B that the deed is genuine, and B may prove a statement by A that the deed is forged; but A cannot prove a statement by himself that the deed is genuine nor can B prove a statement by himself that the deed is forged.

(b) A, the captain of a ship, is tried for casting her away.

Evidence is given to show that the ship was taken out of her proper course.

A produces a book kept by him in the ordinary course of his business, showing observations alleged to have been taken by him from day to day and indicating that the ship was not taken out of her proper course. A may prove these statements, because they would be admissible between third parties if he were dead, under section 32, subsection (2).

(c) A is accused of a crime committed by him at Colombo.

He produces a letter written by himself and dated at Jaffna on that day, and bearing the Jaffna postmark of that day.

The statement in the date of the letter is admissible, because if A were dead it would be admissible under section 32, subsection (2).

(d) A is accused of receiving stolen goods knowing them to be stolen.

He offers to prove that he refused to sell them below their value.

A may prove these statements though they are admissions, because they are explanatory of conduct influenced by facts in issue.

(e) A is accused of fraudulently having in his possession counterfeit coin, which he knew to be counterfeit.

He often to prove that he asked a skilful person to examine the coin, — be doubted whether it was counterfeit or not, and that that person did examine it and told him it was genuine.

A may prove these facts for the reasons stated in the last preceding illustration.

When oral admissions as to contents of documents are relevant.

22. Oral admissions as to the contents of a document are not relevant, unless and until the party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such documents under the rules hereinafter contained, or unless the genuineness of a document produced is in question.

Admissions in civil cases when relevant.

23. In civil cases no admission is relevant if it is made either upon an express condition that evidence of it is not to be given, or under circumstances from which the court can infer that the parties agreed together that evidence of it should not be given.

Explanation—Nothing in this section shall be taken to exempt any attorney-at-law from giving evidence of any matter of which he may be compelled to give evidence under section 126.

Confession caused by inducement, threat, or promise irrelevant.

24. A confession made by an accused person is irrelevant in a criminal proceeding if the making of the confession appears to the court to have been caused by any inducement, threat, or promise having reference to the charge against the accused person, proceeding from a person in authority, or proceeding from another person in the presence of a person in authority and with his sanction, and which inducement, threat, or promise is sufficient in the opinion of the court to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

Confession made to a police officer not to be proved against an accused person.

25. (1) No confession made to a police officer shall be proved as against a person accused of any offence.

Confession made to a forest officer or an excise officer not to be proved against person making confession.

(2) No confession made to a forest officer with respect to an act made punishable under the Forest Ordinance, or to an excise officer with respect to an act made punishable under the Excise Ordinance, shall be proved as against any person making such confession.

26. (1) No confession made by any person whilst he is in the custody of a police officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.

Confession made by any person while in custody of a police officer not to be proved against him.

(2) No confession made by any person in respect of an act made punishable under the Forest Ordinance, or the Excise Ordinance, whilst such person is in the custody of a forest officer or an excise officer, respectively, shall be proved as against such person, unless such confession is made in the immediate presence of a Magistrate.

Confession made by any person while in the custody of a forest officer or an excise officer not to be proved against him.

27. (1) Provided that, when any fact is deposited to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered may be proved.

How much of information received from accused may be proved.

(2) Subsection (1) shall also apply *mutatis mutandis*, in the case of information received from a person accused of any act made punishable under the Forest Ordinance, or the Excise Ordinance, when such person is in the custody of a forest officer or an excise officer, respectively.

27A. In sections 25, 26, and 27, the terms "forest officer" and "excise officer" shall have the same meanings as are respectively assigned to those terms in the Forest Ordinance, and the Excise Ordinance.

Meaning of terms "forest officer" and "excise officer".

28. If such a confession as is referred to in section 24 is made after the impression caused by any such inducement, threat, or promise has, in the opinion of the court, been fully removed, it is relevant.

Confession made after removal of impression caused by inducement, threat, or promise, relevant.

29. If such a confession is otherwise relevant, it does not become irrelevant merely because it was made under a promise of secrecy or in consequence of a deception practised on the accused person for the purpose of obtaining it. or when he was drunk, or because it was made in answer to questions which he need not have answered, whatever may have been the form of those questions, or because he was not warned that he was not bound to make such confession, and that evidence of it might be given against him.

Confession otherwise relevant not to become irrelevant because of promise of secrecy, &c.

Confession made by one of several persons tried jointly for the same offence.

**30.** When more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the court shall not take into consideration such confession as against such other person.

*Explanation.*—" Offence" as used in this section includes the abetment of or attempt to commit the offence.

*Illustration*

A and B are jointly tried for the murder of C. It is proved that A said, " B and I murdered C ". The court shall not consider the effect of this confession as against B.

Admissions not conclusive proof, but may estop.

**31.** Admissions are not conclusive proof of the matters admitted, but they may operate as estoppels under the provisions hereinafter contained.

STATEMENTS BY PERSONS WHO CANNOT BE CALLED AS WITNESSES

Cases in which statement of relevant fact by person who is dead or cannot be found, &c., is relevant.

**32.** Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which, under the circumstances of the case, appears to the court unreasonable, are themselves relevant facts in the following cases :-

When it relates to cause of death;

(1) When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question.

Such statements are relevant whether the person who made them was or was not, at the time when they were made. under expectation of death. and whatever may be the nature of the proceedings in which the cause of his death comes into question.

or is made in course of business:

(2) When the statement was made by such person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business or in the discharge of professional duty; or of an acknowledgment written or signed by him of the receipt of money,

goods, securities, or property of any kind ; or of a document used in commerce written or signed by him, or of the date of a letter or other document usually dated, written, or signed by him.

(3) When the statement is against the pecuniary or proprietary interest of the person making it, or when if true, it would expose him or would have exposed him to a criminal prosecution or to a suit for damages.

or against interest of maker;

(4) When the statement gives the opinion of any such person as to the existence of any public right or custom or matter of public or general interest, of the existence of which, if it existed, he would have been likely to be aware, and when such statement was made before any controversy as to such right, custom, or matter had arisen.

or gives opinion as to public right or custom or matters of general interest;

(5) When the statement relates to the existence of any relationship by blood, marriage, or adoption between persons as to whose relationship by blood, marriage, or adoption the person making the statement had special means of knowledge, and when the statement was made before the question in dispute was raised.

or relates to existence of relationship;

(6) When the statement relates to the existence of any relationship by blood, marriage, or adoption between persons deceased, and is made in any will or deed relating to the affairs of the family to which any such deceased person belonged, or in any family pedigree, or upon any tombstone, family portrait, or other thing on which such statements are usually made, and when such statement was made before the question in dispute was raised.

or is made in will or deed relating to family affairs;

(7) When the statement is contained in any deed, will, or other document which relates to any such transaction as is mentioned in section 13 (a);

or in document relating to transaction mentioned in section 13 (a);

or is made by several persons, and expresses feelings relevant to matter in question.

- (8) When the statement was made by a number of persons, and expressed feelings or impressions on their part relevant to the matter in question.

*Illustrations*

- (a) The question is, whether A was murdered by B, or whether A died of injuries received in a transaction in the course of which she was ravished.

The question is, whether she was ravished by B ; or

The question is, whether A was killed by B under such circumstances that a suit would lie against B by A's widow.

Statements made by A as to the cause of his or her death, referring respectively to the murder, the rape, and the actionable wrong under consideration, are relevant facts.

- (b) The question is as to the date of A's birth.

An entry in the diary of a deceased surgeon, regularly kept in the course of business, stating that, on a given day, he attended A's mother and delivered her of a son, is a relevant fact.

- (c) The question is, whether A was in Colombo on a given day.

A statement in the diary of deceased attorney-at-law, regularly kept in the course of business, that, on a given day, the attorney-at-law attended A, at a place mentioned, in Colombo, for the purpose of conferring with him upon specified business, is a relevant fact.

- (d) The question is, whether a ship sailed from Galle harbour on a given day.

A letter written by a deceased member of a merchant's firm by which she was chartered to their correspondents in London to whom the cargo was consigned, stating that the ship sailed on a given day from Galle harbour, is a relevant fact.

- (e) The question is, whether rent was paid to A for certain land.

A letter from A's deceased agent to B saying that he had received the rent on A's account and held it at A's orders, is a relevant fact.

- (f) The question is, whether A and B were legally married.

The statement of a deceased clergyman that he married them under such circumstances that the celebration would be a crime is relevant.

- (g) The question is, whether A, a person who cannot be found, wrote a letter on a certain day.

The fact that a letter written by him is dated on that day is relevant.

- (h) The question is, what was the cause of the wreck of a ship.

A protest made by the captain, whose attendance cannot be procured, is a relevant fact.

- (i) The question is, whether a given road is a public way.

A statement by A, a deceased grama seva niladnan, that the road was public, is a relevant fact.

- (j) The question is, what was the price of grain on a certain day in a particular market

A statement of the price made by a deceased broker in the ordinary course of business is a relevant fact.

- (k) The question to, whether A, who u dead, was the father of B.

A statement by A that B wqs his son is a relevant fact

- (l) The question is. what was the date of the birth of A.

A letter from A's deceased father to a friend announcing the birth of A on a given day is a relevant fact.

- (m) The question is, whether, and when, A and B were married.

An entry in a memorandum book by C, the deceased father of B, of his daughter's marriage with A on a given date, is a relevant fact.

- (n) A sues B for a libel expressed in a printed caricature exposed in a shop window. The question is as to the similarity of the caricature and its libellous character.

The remarks of a crowd of spectators on these point! may be proved.

**33.** Evidence given by a witness in a judicial proceeding, or before any person authorized by law to take it, is relevant, for the purpose of proving, in a subsequent judicial proceeding, or in a later stage of the same judicial proceeding, the truth of the facts which it states, when the witness is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable ;

Evidence in a former judicial proceeding, when relevant

Provided-

- (a) that the proceeding was between the same parties or their representatives in interest;

- (b) that the adverse party in the first proceeding had the right and opportunity to cross-examine;

- (c) that the questions in issue were substantially the same in the first as in the second proceeding.

*Explanation.*-A criminal trial or inquiry shall be deemed to be a proceeding between the prosecutor and the accused within the meaning of this section.

**STATEMENTS MADE UNDER SPECIAL CIRCUMSTANCES**

**HOW MUCH OF A STATEMENT IS TO BE PROVED**

Entries in books of account when relevant.

**34.** Entries in books of account, regularly kept in the course of business, are relevant, whenever they refer to a matter into which the court has to inquire, but such statements shall not alone be sufficient evidence to charge any person with liability.

*Illustration*

A sues B for Rs. 1,000 and shows entries in his account books showing B to be indebted to him to this amount. The entries are relevant, but are not sufficient without other evidence to prove the debt.

Entry in public record made in performance of duty enjoined by law, when relevant.

**35.** An entry in any public or other official book, register, or record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty especially enjoined by the law of the country in which such book, register, or record is kept, is itself a relevant fact.

Maps, charts, and plans, when relevant.

**36.** Statements of facts in issue or relevant facts, made in published maps or charts generally offered for public sale, or in maps or plans made under the authority of Government, as to matters usually represented or stated in such maps, charts, or plans, are themselves relevant facts.

Statement as to fact of public nature contained in any enactment or notification, when relevant.

**37.** When the court has to form an opinion as to the existence of any fact of a public nature, any statement of it made in a recital contained in any enactment of Sri Lanka or in the legislation of any foreign country or in any proclamation or notification of the Government of Sri Lanka, appearing in any Gazette of Sri Lanka, or in any proclamation or notification of the Government of any foreign country, appearing in any official publication of the Government of such foreign country, is a relevant fact.

Statements in law books, when relevant.

**38.** When the court has to form an opinion as to a law of any country, any statement of such law contained in a book purporting to be printed or published under the authority of the Government of such country, and to contain any such law, and any report of a ruling of the courts of such country contained in a book purporting to be a report of such rulings, is relevant.

**39.** When any statement of which evidence is given forms part of a longer statement, or of a conversation, or part of an isolated document, or is contained in a document which forms part of a book, or of a connected series of letters or papers, evidence shall be given of so much and no more of the statement, conversation, document, book, or series of letters or papers as the court considers necessary in that particular case to the full understanding of the nature and effect of the statement, and of the circumstances under which it was made.

Whatever evidence to be given when statement forms part of a conversation, document, book, or series of letters or papers.

**JUDGMENTS OF COURTS OF JUSTICE WHEN RELEVANT**

**40.** The existence of any judgment, order or decree which by law prevents any court from taking cognizance of a suit or holding a trial, is a relevant fact, when the question is, whether such court ought to take cognizance of such suit or to hold such trial.

Previous judgments relevant to bar a second suit or trial.

**41.** (1) A final judgment, order, or decree of a competent court, in the exercise of probate, matrimonial, admiralty, or insolvency jurisdiction, which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any such character, or to be entitled to any specific thing, not as against any specified person, but absolutely, is relevant, when the existence of any such legal character, or the title of any such person to any such thing, is relevant.

Relevancy of judgements in probate, &c., jurisdiction.

(2) Such judgment, or order, or decree is conclusive proof-

(a) that any legal character which it confers accrued at the time when such judgment, order, or decree came into operation ;

(b) that any legal character to which it declares any such person to be entitled, accrued to that person at the time when such judgment, order, or decree declares it to have accrued to that person ;

(c) that any legal character which it takes away from any such person ceased at the time from which such judgment, order, or decree declared that it had ceased or should cease; and

(d) that anything to which it declares any person to be so entitled was the property of that person at the time from which such judgment, order, or decree declares that it had been or should be his property.

(e) A is tried for the murder of B. The fact that B prosecuted A for libel, and that A was convicted and sentenced, is relevant under section 8, as showing the motive for the fact in issue.

When judgments, &c., other than those mentioned in section 41 are relevant.

**42.** Judgments, orders, or decrees other than those mentioned in section 41 are relevant if they relate to matters of a public nature relevant to the inquiry ; but such judgments, orders, or decrees are not conclusive proof of that which they state,

**44.** Any party to a suit or other proceeding may show that any judgment, order, or decree which is relevant under sections 40, 41, or 42 and which has been proved by the adverse party, was delivered by a court not competent to deliver it, or was obtained by fraud or collusion.

Fraud, collusion, Or incompetency of court may be proved.

*Illustration*

A sues B for trespass on his land, B alleges the existence of a public right of way over the land, which A denies.

The existence of a decree in favour of the defendant in a suit by A against C for a trespass on the same land, in which C alleged the existence of the same right of way, is relevant, but it is not conclusive proof that the right of way exists.

OPINIONS OF THIRD PERSONS WHEN RELEVANT

**45.** When the court has to form an opinion as to foreign law, or of science, or art, or as to identity or genuineness of handwriting or finger impressions, palm impressions or foot impressions, the opinions upon that point of persons specially skilled in such foreign law, science, or art, or in questions as to identity or genuineness of handwriting or finger impressions, palm impressions or foot impressions, are relevant facts,

Opinions of experts.

Such persons are called experts.

When judgments, &c., other than those mentioned in sections 40, 41, and 42, are relevant.

**43.** Judgments, orders or decrees, other than those mentioned in sections 40, 41, and 42, are irrelevant, unless the existence of such judgment, order, or decree is a fact in issue, or is relevant under some other provision of this Ordinance.

*Illustrations*

(a) The question is, whether the death of A was caused by poison.

The opinions of experts as to the symptoms produced by the poison by which A is supposed to have died are relevant.

(b) The question is, whether A, at the time of doing a certain act, was, by reason of unsoundness of mind, incapable of knowing the nature of the act, or that he was doing what was either wrong or contrary to law.

The opinions of experts upon the question whether the symptoms exhibited by A commonly show unsoundness of mind, and whether such unsoundness of mind usually renders persons incapable of knowing the nature of the acts which they do, or of knowing what they do is either wrong or contrary to law, are relevant,

(c) The question is, whether a certain document was written by A. Another document is produced which is proved or admitted to have been written by A.

The opinions of experts on the question whether the two documents, were written by the same person or by different persons, are relevant.

*Illustrations*

(a) A and B separately sue C for a libel which reflects upon each of them, C in each case says that the matter alleged to be libellous is true, and the circumstances are such that it is probably true in each case, or in neither.

A obtains a decree against C for damages, on the ground that C failed to make out his justification. The fact is irrelevant as between B and C.

(b) A prosecutes B for stealing a cow from him. B is convicted.

A afterwards sues C for the cow, which B had sold to him before his conviction. As between A and C the judgment against B is irrelevant.

(c) A has obtained a decree for the possession of land against B ; C, B's son, murders A in consequence.

The existence of the judgment is relevant, as showing motive for a crime.

(d) A is charged with theft and with having been previously convicted of theft.

The previous conviction is relevant as a fact in issue.

**46.** Facts not otherwise relevant are relevant if they support or are inconsistent with the opinions of experts, when such opinions are relevant.

Facts bearing upon opinions of experts.

*Illustrations*

(a) The question is, whether A was poisoned by a certain poison.

The fact that other persons who were poisoned by that poison exhibited certain symptoms which experts affirm or deny to be the symptoms of that poison, is relevant.

(b) The question is, whether an obstruction to a harbour is caused by a certain sea-wall.

The fact that other harbours are similarly situated in other respects but, where there were no such sea-walls, began to be obstructed at about the same time, is relevant.

Opinion as to handwriting.

**47.** When the court has to form an opinion as to the persons by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed that it was or was not written or signed by that person is a relevant fact.

*Explanation.* -A person is said to be acquainted with the handwriting of another person when he has seen that person write, or when he has received documents purporting to be written by that person in answer to documents written by himself or under his authority and addressed to that person, or when, in the ordinary course of business, documents purporting to be written by that person have been habitually submitted to him.

*Illustration*

The question is, whether a given letter is in the handwriting of A, a merchant in London.

B is a merchant in Colombo, who has written letters addressed to A and received letters purporting to be written by him. C is B's clerk, whose duty it was to examine and file B's correspondence. D is B's broker, to whom B habitually submitted the letters purporting to be written by A for the purpose of advising with him thereon.

The opinion of B, C, and D on the question, whether the letter is in the handwriting of A, are relevant, though neither B, C, nor D ever saw A write,

Opinion as to existence of right or custom, when relevant.

**48.** When the court has to form an opinion as to the existence of any general custom or right, the opinion, as to the existence of such custom or right, of persons who would be likely to know of its existence if it existed, is relevant.

*Explanation.* -The expression "general custom or right" includes customs or rights common to any considerable class of persons.

*Illustrations*

The right of the inhabitants of a particular village to use the water of a particular well is a general right within the meaning of this section.

**49.** When the court has to form an Opinion as to- Opinion as to usages, tenets &c., when relevant.

(a) the usages and tenets of any body of men or family;

(b) the constitution and government of any religious or charitable foundation; or

(c) the meaning of words or terms used in particular districts or by particular classes of people ;

the opinions of persons having special means of knowledge thereon are relevant facts.

**50.** When the court has to form an opinion as to the relationship of one person to another, the opinion, expressed by conduct, as to the existence of such relationship of any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is a relevant fact: Opinion on relationship, when relevant.

Provided that such opinion shall not be sufficient to prove a marriage in proceedings for divorce, or in prosecutions under sections 362B, 362c, and 362D of the Penal Code.

*Illustrations*

(a) The question is, whether A and B were married.

The fact that they were usually received and treated by their friends as husband and wife is relevant.

(b) The question is, whether A was the legitimate son of B.

The fact that A was always treated as such by members of the family is relevant.

**51.** Whenever the opinion of any living person is relevant the grounds on which such opinion is based are also relevant. Grounds of opinion, when relevant.

*Illustration*

An expert may give an account of experiments performed by him for the purpose of forming his opinion.



CHARACTER WHEN RELEVANT

In civil cases character to prove conduct imputed, irrelevant.

**52.** In civil cases, the fact that the character of any person concerned is such as to render probable or improbable any conduct imputed to him is irrelevant, except in so far as such character appears from facts otherwise relevant.

In criminal cases previous good character relevant.

**53.** In criminal proceedings the fact that the person accused is of a good character is relevant.

Previous bad character irrelevant, except when evidence of good character is given.

**54.** In criminal proceedings the fact that the accused person has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant.

*Explanation 1.*-This section does not apply to cases in which the bad character of any person is itself a fact in issue.

*Explanation.*-A previous conviction is relevant as evidence of bad character in such case.

Character as affecting damages.

**55.** In civil cases, the fact that the character of any person is such as to affect the amount of damages which he ought to receive is relevant.

*Explanation.*-In sections 52, 53, 54, and 55 the word "character" includes both reputation and disposition ; but, except as provided in section 54, evidence may be given only of general reputation and general disposition, and not of particular acts by which reputation or disposition were shown.

**PART II**

**ON PROOF**

**CHAPTER III**

**FACTS WHICH NEED NOT BE PROVED**

No proof required of fact judicially noticed.

**56.** No fact of which the court with take judicial notice need be proved.

Facts of which court must take judicial notice.

**57.** The court shall take judicial notice of the following facts:-

- (1) all laws, or rules having the force of law, now or heretofore in force or hereafter to be in force in any part of Sri Lanka ;
- (2) all public Acts passed or hereafter to be passed by Parliament, and all local and personal Acts directed by Parliament to be judicially noticed ;

- (3) articles of war for the Sri Lanka Army, Navy or Air Force ;
- (4) the course of proceedings of the Legislature of Sri Lanka ;
- (5) the Public Seal of the Republic of Sri Lanka ;
- (6) the seals of all the courts of Sri Lanka and of notaries public ; and all seals which any person is authorized to use by any enactment for the time being in force of the Legislature of Sri Lanka or of the Legislature of any foreign country ;
- (7) the accession to office, names, titles, functions, and signatures of the persons filling for the time being any public office in any part of Sri Lanka, if the fact of their appointment to such office is notified in the Gazette ;
- (8) the existence, title, and national flag of every State or Sovereign recognized by the Republic of Sri Lanka ;
- (9) the ordinary course of nature, natural and artificial divisions of time, the geographical divisions of the world, the meaning of Sinhala, Tamil or English words, and public festivals, fasts, and holidays notified in the Gazette ;
- (10) the territorial limits of the Democratic Socialist Republic of Sri Lanka and of its divisions ;
- (11) the commencement, continuance, and termination of hostilities between the Republic of Sri Lanka and any foreign State or body of persons ;
- (12) the names of the members and officers of the court, and of their deputies and subordinate officers and assistants, and also of all officers acting in execution of its process, and of all attorneys-at-law, and other persons authorized by law to appear or act before it ;

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- (13) the rule of the road on land or at sea;
- (14) all other matters of which it is directed by any enactment to take notice.

In all these cases, and also on all matters of public history, literature, science, or art, the court may resort for its aid to appropriate books or documents of reference.

If the court is called upon by any person to take judicial notice of any fact, it may refuse to do so unless and until such person produces any such book or document as it may consider necessary to enable it to do so.

Facts admitted need not be proved.

**58.** No fact need be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings :

Provided that the court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.

**CHAPTER IV**

**OF ORAL EVIDENCE**

Facts may be proved by oral evidence.

**9.** All facts, except the contents of documents, may be proved by oral evidence.

Oral evidence must be direct

**60.** Oral evidence must, in all cases whatever, be direct; that is to say-

- (1) if it refers to a fact which could be seen it must be the evidence of a witness who says he saw that fact;
- (2) if it refers to a fact which could be heard, it must be the evidence of a witness who says he heard that fact;

(3) if it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived that fact by that sense or in that manner;

(4) if it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds :

Provided that the opinions of experts expressed in any treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the court regards as unreasonable :

Provided also that, if oral evidence refers to the existence or condition of any material thing other than a document, the court may, if it thinks fit, require the production of such material thing for its inspection.

**CHAPTER V**

**OF DOCUMENTARY EVIDENCE**

**61.** The contents of documents may be proved either by primary or by secondary evidence.

Proof of contents of documents.

**62.** Primary evidence means the document itself produced for the inspection of the court.

Primary evidence.

*Explanation 1.*-Where a document is executed in several parts, each part is primary evidence of the document.

Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only. each counterpart is primary evidence as against the parties executing it.

*Explanation 2.*-Where a number of documents are all made by one uniform process, as in the case of printing, lithography, or photography, each is primary evidence of the contents of the rest ; but where they are all copies of a common original. they are not primary evidence of the contents of the original-

*Illustration*

A person is shown to have been in possession of a number of placards, all printed at one time from one original. Any one of the placards is primary evidence of the contents of any other, but no one of them is primary evidence of the contents of the original.

**65.** Secondary evidence may be given of the existence, condition, or contents of a document in the following cases :-

Cases in which secondary evidence relating to documents may be given.

(1) When the original is shown or appears to be in the possession or power-

(i) of the person against whom the document is sought to be proved, or

(ii) of any person out of reach of, or not subject to, the process of the court, or

(iii) of any person legally bound to produce it, and when, after the notice mentioned in section 66, such person does not produce it;

(2) when the existence, condition, or contents of the original have been proved to be admitted in writing by the person against whom it is sought to be proved, or by his representative in interest;

(3) when the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any other reason not arising from his own default or neglect, produce it in reasonable time;

(4) when the original is of such a nature as not to be easily movable ;

(5) when the original is a public document within the meaning of section 74 ;

(6) when the original is a document of which a certified copy is permitted by this Ordinance or by any other law in force in Sri Lanka to be given in evidence ;

(7) when the originals consist of numerous accounts or other documents which cannot conveniently be examined in court, and the fact to be proved is the general result of the whole collection.

Secondary evidence.

**63.** Secondary evidence means and includes-

(1) certified copies given under the provisions hereinafter contained ;

(2) copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies ;

(3) copies made from or compared with the original;

(4) counterparts of documents as against the parties who did not execute them;

(5) oral accounts of the contents of a document given by some person who has himself seen it.

*Illustrations*

(a) A photograph of an original is secondary evidence of its contents, though the two have not been compared, if it is proved that the thing photographed was the original.

(b) A copy compared with a copy of a letter made by a copying machine is secondary evidence of the contents of the letter, if it is shown that the copy made by the copying machine was made from the original.

(c) A copy transcribed from a copy, but afterwards compared with the original, is secondary evidence; but the copy not so compared is not secondary evidence of the original, although the copy from which it was transcribed was compared with the original.

(d) Neither an oral account of a copy compared with the original nor an oral account of a photograph or machine-copy of the original, is secondary evidence of the original.

Proof of documents by primary evidence,

**64.** Documents must be proved by primary evidence, except in the cases hereinafter mentioned.

In cases (1), (3), and (4). any secondary evidence of the contents of the document is admissible.

In case (2), the written admission is admissible.

In case (5) or (6), a certified copy of the document, but no other kind of secondary evidence, is admissible.

In case (7), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such documents.

Rules as to notice to produce.

**66.** Secondary evidence of the contents of the documents referred to in section 65, subsection (1), shall not be given unless the party proposing to give such secondary evidence has previously given to the party in whose possession or power the document is, or to his attorney-at-law, such notice to produce it as is prescribed by law ; and if no notice is prescribed by law, then such notice as the court considers reasonable under the circumstances of the case :

Provided that such notice shall not be required in order to render secondary evidence admissible in any of the following cases, or in any other case in which the court thinks fit to dispense with it :-

- (1) when the document to be proved is itself a notice;
- (2) when from the nature of the case, the adverse party must know that he will be required to produce it;
- (3) when it appears or is proved that the adverse party has obtained possession of the original by fraud or by force;
- (4) when the adverse party or his agent has the original in court;
- (5) when the adverse party or his agent has admitted the loss of the document;
- (6) when the person in possession of the document is out of reach of, or not subject to, the process of the court.

**67.** If a document is alleged to be signed or to have been written wholly or in part by any person, the signature or the handwriting of so much of the document as is alleged to be in that person's handwriting must be proved to be in his handwriting.

Proof of signature and handwriting of person alleged to have signed or written document produced.

**68.** If a document is required by law to be attested, it shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive, and subject to the process of the court and capable of giving evidence.

Proof of execution of document required by law to be attested.

**69.** If no such attesting witness can be found, or if the document purports to have been executed in any foreign country, it must be proved that the attestation of one attesting witness at least is in his handwriting, and that the signature of the person executing the document is in the handwriting of that person.

Proof where no attesting witness found.

**70.** The admission of a party to an attested document of its execution by himself shall be sufficient proof of its execution as against him, though it be a document required by law to be attested.

Admission of execution by party to attested document.

**71.** If the attesting witness denies or does not recollect the execution of the document, its execution may be proved by other evidence.

Proof when attesting witness denies the execution.

**72.** An attested document not required by law to be attested may be proved as if it was unattested.

Proof of document not required by law to be attested.

**73.** (1) In order to ascertain whether a signature, writing, or seal is that of the person by whom it purports to have been written or made. any signature, writing, or seal admitted or proved to the satisfaction of the court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing, or seal has not been produced or proved for any other purpose.

Comparison of handwriting.

(2) The court may direct any person present in court to write any words or figures for the purpose of enabling the court to compare the words or figures so written with any words or figures alleged to have been written by such person.

(3) This section applies also, with any necessary modification, to finger impressions, palm impressions and foot impressions.

**77.** Such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies. Proof of documents by production of certified copies.

**PUBLIC DOCUMENTS**

**74.** The following documents are public documents :-

- (a) documents forming the acts, or records of the acts-
  - (i) of the Sovereign authority ;
  - (ii) of official bodies and tribunals; and
  - (iii) of public officers, legislative, judicial, and executive, whether of Sri Lanka or of a foreign country ;
- (b) public records, kept in Sri Lanka, of private documents ;
- (c) plans, surveys, or maps purporting to be signed by the Surveyor-General or officer acting on his behalf.

**75.** All other documents are private.

**76.** Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefor together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal, and such copies so certified shall be called certified copies.

*Explanation.*-Any officer who, by the ordinary course of official duty, is authorized to deliver such copies shall be deemed to have the custody of such documents within the meaning of this section.

**78.** The following public documents may be proved as follows :- Proof of other documents.

- (1) acts, orders, or notifications of the Government of Sri Lanka or of any of its departments -
  - (i) by the records of the departments certified by the heads of those departments respectively, or by the Secretary to the Ministry or a Deputy or an Assistant Secretary ;
  - (ii) by any document purporting to be printed by order of the Government;
- (2) the proceedings of the Legislature -
  - (i) by the minutes of that body, or
  - (ii) by published enactments or abstracts, or
  - (iii) by copies purporting to be printed by order of Government;
- (3) proclamations, orders, or regulations issued by any department of Government -
  - by copies or extracts contained in the Gazette of Sri Lanka ;
- (4) the acts of the executive or the proceedings of the legislature of a foreign country -
  - (i) by journals published by their authority, or commonly received in that country as such. or
  - (ii) by a copy certified under the seal of the country or Sovereign, or
  - (iii) by a recognition thereof in some public enactment of Sri Lanka;

Public documents.

Private documents.

Certified copies of public documents.

(5) the proceedings of a municipal body in Sri Lanka -

- (i) by a copy of such proceedings certified by the legal keeper thereof, or
- (ii) by a printed book purporting to be published by the authority of such body ;

(6) public documents of any other class in a foreign country -

- (i) by the original, or
- (ii) by a copy certified by the legal keeper thereof, with a certificate under the seal of a notary public or of any Ambassador, High Commissioner, or other diplomatic agent of Sri Lanka, that the copy is duly certified by the officer having the legal custody of the original and upon proof of the character of the document according to the law of the foreign country.

**PRESUMPTIONS AS TO DOCUMENTS**

Presumption as to genuineness of certified copies.

**79.** (1) The court shall presume every document purporting to be a certificate, certified copy, or other document, which is by law declared to be admissible as evidence of any particular fact, and which purports to be duly certified by any officer in Sri Lanka, to be genuine :

Provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf.

(2) The court shall also presume that any officer, by whom any such document purports to be signed or certified, held, when he signed it, the official character which he claims in such paper,

\* See section 90 Explanation.

**80.** Whenever any document is produced before any court purporting to be a record or memorandum of the evidence or of any part of the evidence given by a witness in a Judicial proceeding or before any officer authorized by law to take such evidence, or to be a statement or confession by any prisoner or accused person taken in accordance with law and purporting to be signed by any Judge or Magistrate or by any such officer as aforesaid, the court shall presume ~

- (i) that the document is genuine ;
- (ii) that any statements, as to the circumstances under which it was taken, purporting to be made by the persons signing it, are true; and
- (iii) that such evidence, statement, or confession was duly taken.

**81.** The court shall presume the genuineness of every document purporting to be the Gazette of Ceylon or Sri Lanka, or purporting to be any similar publication of any foreign country, and of every document purporting to be a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody.\*

Presumption on production of record of evidence.

Presumption as to Gazettes.

**82.** When any document is produced before any court purporting to be a document which, by the law in force for the time being in any foreign country, would be admissible in proof of any particular in any Court of Justice in that country, without proof of the seal, or stamp, or signature authenticating it, or of the judicial or official character claimed by the person by whom it purports to be signed, the court shall presume -

- (a) that such seal, stamp, or signature is genuine, and
- (b) that the person signing it held, at the time when he signed it, the judicial or official character which he claims,

and the document shall be admissible for the same purpose for which it would be admissible in that foreign country.

Presumption as to document admissible in any foreign country without proof of seal or signature.

Presumption as to maps or plans made or signed by Surveyor-General.

**83.** The court shall presume that maps, plans, or surveys purporting to be signed by the Surveyor-General or officer acting on his behalf were duly made by his authority and are accurate ; but maps, plans, or surveys not so signed must be proved to be accurate.

Presumption as to collections of laws and reports of decisions.

**84.** The court shall presume the genuineness of every book purporting to be printed or published under the authority of the Government of any country, and to contain any of the laws of that country and of every book purporting to contain reports of decisions of the courts of such country.

Presumption as to powers of attorney.

**85.** The court shall presume that every document purporting to be a power of attorney, and to have been executed before, and authenticated by, a notary public, a person duly authorized by law in that behalf, or any court. Judge, Magistrate, an Ambassador or High Commissioner or other diplomatic representative of Sri Lanka, was so executed and authenticated.

Presumption as to certified copies of foreign judicial records.

**86.** The court may presume that any document purporting to be a certified copy of any judicial record of any country other than the Republic of Sri Lanka is genuine and accurate, if the document purports to be certified in any manner which is certified by any representative of the Republic of Sri Lanka in or for such country to be the manner commonly in use in that country for the certification of copies of judicial records.

Presumption as to books and maps.

**87.** The court may presume that any book to which it may refer for information on matters of public or general interest, and that any published map or chart, the statements of which are relevant facts, and which is produced for its inspection, was written and published by the person, and at the time and place by whom or at which it purports to have been written or published.

Presumption as to telegraphic messages.

**88.** The court may presume that a message, forwarded from a telegraph office to the person to whom such message purports to be addressed, corresponds with a message delivered for transmission at the office from which the message purports to be sent; but the court shall not make any

presumption as to the person by whom such message was delivered for transmission.

**89.** The court shall presume that every document called for and not produced, after notice to produce given under section 66, was attested, stamped, and executed in the manner required by law.

Presumption as to due execution. &c. of documents not produced.

**90.** Where any document purporting or proved to be thirty years old is produced from any custody which the court in the particular case considers proper, the court may presume that the signature and every other part of such document which purports to be in the handwriting of any particular person is in that person's handwriting, and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.

Presumption as to document- thirty years old.

*Explanation.* -Documents are said to be in proper custody if they are in the place in which, and under the care of the person with whom they would naturally be ; but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render such an origin probable.

This explanation applies also to section 81.

*Illustrations*

- (a) A has been in possession of landed property for a long time. He produces from his custody deeds relating to the land showing his titles to it- The custody is proper.
- (b) A produces deeds relating to landed property of which he is the mortgagee. The mortgagor is in possession. The custody is proper.
- (c) A, a connection of B, produces deeds relating to lands in B's possession, which were deposited with him by B for safe custody. The custody is proper.

**CHAPTER VI**

**BANKERS' BOOKS**

**90A.** In this Chapter, unless there is interpretation. something repugnant in the subject or context-

"bank " and " banker " mean-

- (i) any company carrying on the business of bankers,

- (ii) any partnership or individual to whose books the provisions of this Chapter shall have been extended as hereinafter provided.
- (iii) any savings bank. National Savings Bank, or money order office ;

"bankers' books " include ledgers, day books, cash books, account books. and all other books used in the ordinary business of a bank ;

" certified copy " means a copy of any entry in the books of a bank, together with a certificate written at the foot of such copy that it is a true copy of such entry ; that such entry is contained in one of the ordinary books of the bank, and was made in the usual and ordinary course of business ; and that such book is still in the custody of the bank, such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title.

"company " means a company incorporated or registered by or under any enactment relating to companies from time to time in force in Sri Lanka, and includes an " exempted company " or a company recognized as an " existing company " within the meaning of the Companies (Special Provisions) Law.

Power to extend provision of Chapter.

**90B.** The Minister may from time to time, by notification in the Gazette, extend the provisions of this Chapter to the books of any partnership or individual carrying on the business of bankers within Sri Lanka, and keeping a set of not less than three ordinary account books, namely, a cash book, a day book or journal, and a ledger, and may in like manner rescind any such notification.

Mode of proof of entries in banker's books.

**90C.** Subject to the provisions of this Chapter a certified copy of any entry in a banker's book shall in all legal proceedings be received as prima facie evidence of the existence of such entry, and shall be

admitted as evidence of the matters. transactions, and accounts therein recorded in every case where, and to the same extent as. the original entry itself is now by law admissible, but not further or otherwise.

**90D.** No officer of a bank shall, in any legal proceeding to which the bank is not a party, be compellable to produce any banker's book the contents of which can be proved under this Chapter, or to appear as a witness to prove the matters, transactions, and accounts therein recorded, unless by order of the court, or a Judge, made for special cause,

Case in which officer of bank not compellable to produce books.

**90E.** (1) On the application of any party to a legal proceeding, the court or a Judge may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceeding, or may order the bank to prepare and produce, within a time to be specified in the order, certified copies of all such entries, accompanied by a further certificate that no other entries are to be found in the books of the bank relevant to the matters in issue in such proceeding, and such further certificate shall be dated and subscribed in manner hereinbefore directed in reference to certified copies.

Inspection of books by order of court or Judge.

(2) An order under this or the preceding section may be made either with or without summoning the bank, and shall be served on the bank three clear days (exclusive of bank holidays) before the same is to be obeyed, unless the court or Judge shall otherwise direct.

(3) The bank may at any time, before the time limited for obedience to any such order as aforesaid, either offer to produce their books at the trial or give notice of their intention to show cause against such order, and thereupon the same shall not be enforced without further order,

**90F.** (1) The costs of any application to the court or a Judge under or for the purposes of this Chapter, and the costs of anything done or to be done under an order of the court or a Judge made under or for the purposes of this Chapter, shall be in the discretion of the court or Judge, who

Costs.



may further order such costs or any part thereof to be paid to any party by the bank if they have been incurred in consequence of any fault or improper delay on the part of the bank-

(2) Any order made under this section for the payment of costs to or by a bank may be enforced as if the bank were a party to the proceeding.

(3) Any order under this section awarding costs may, on application to any court of civil judicature designated in the order, be executed by such court as if the order were a decree for money passed by itself:

Provided that nothing in this subsection shall be construed to derogate from any power which the court or judge making the order may possess for the enforcement of its or his directions with respect to the payment of costs.

*Explanation 7.*-This section applies equally to cases in which the contracts, grants or dispositions of properly referred to are contained in one document, and to cases in which they are contained in more documents than one.

*Explanation 2.*-Where there are more originals than one, one original only need be proved.

*Explanation 11.*-The statement in any document whatever of a fact other than the facts referred to in this section shall not preclude the admission of oral evidence as to the same fact.

*Illustrations*

- (a) If a contract be contained in several letters, all the letters in which it is contained must be proved.
- (b) If a contract is contained in a bill of exchange, the bill of exchange must be proved.
- (c) If a bill of exchange is drawn in a set of three, one only need be proved.
- (d) A contracts in writing with B for the delivery of plumbago upon certain terms. The contract mentions the fact that B had paid A the price of other plumbago contracted for verbally on another occasion-

Oral evidence is offered that no payment was made for the other plumbago. The evidence is admissible.

(e) A gives B a receipt for money paid by B.

Oral evidence is offered of the payment. The evidence is admissible.

CHAPTER VII

OF THE EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE

Evidence of terms of contracts, grants, or other disposition of property reduced to form of document.

**91.** When the terms of a contract, or of a grant, or of any other disposition of property have been reduced by or by consent of the parties to the form of a document, and in all cases in which any matter is required by law to be reduced to the form of a document, no evidence shall be given in proof of the terms of such contract, grant, or other disposition of property, or of such matter, except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible under the provisions hereinbefore contained.

*Exception 1.*-When a public officer is required by law to be appointed in writing, and when it is shown that any particular person has acted as such officer, the writing by which he is appointed need not be proved.

*Exception 2.*-Wills admitted to probate in Sri Lanka may be proved by the probate.

**92.** When the terms of any such contract, grant or other disposition of property, or any matter required by law to be reduced to the form of a document, have been proved according to the last section, no evidence of any oral agreement or statement shall be admitted as between the parties to any such instrument, or their representatives in interest, for the purpose of contradicting, varying, adding to, or subtracting from its terms.

*Proviso (1).* Any fact may be proved which would invalidate any document, or which would entitle any person to any decree or order relating thereto, such as fraud, intimidation, illegality, want of due execution, want of capacity in any contracting party, the fact that it is wrongly dated, want or failure of consideration, or mistake in fact or law.

*Proviso (2).* The existence of any separate oral agreement as to any matter on which a document is silent, and which is

not inconsistent with its terms, may be proved. In considering whether or not this proviso applies, the court shall have regard to the degree of formality of the document.

*Proviso (3).* The existence of any separate oral agreement constituting a condition precedent to the attaching of any obligation under any such contract, grant, or disposition of property may be proved.

*Proviso (4).* The existence of any distinct subsequent oral agreement to rescind or modify any such contract, grant, or disposition of property may be proved, except in cases in which such contract, grant, or disposition of property is by law required to be in writing, or has been registered according to the law in force for the time being as to the registration of documents.

*Proviso (5).* Any usage or custom by which incidents, not expressly mentioned in any contract, are usually annexed to contracts of that description, may be proved :

Provided that the annexing of such incident would not be repugnant to, or inconsistent with, the express terms of the contract.

*Proviso (6).* Any fact may be proved which shows in what manner the language of a document is related to existing facts.

*Illustrations*

- (a) A policy of insurance is effected on goods "in ships from Colombo to London". The goods are shipped in a particular ship which is lost. The fact that that particular ship was orally excepted from the policy cannot be proved.
- (b) A agrees absolutely in writing to pay B Rs. 1,000 on the 1st of March, 1896. The fact that, at the same time, an oral agreement was made that money should not be paid till the 31st of March cannot be proved.
- (c) An estate called the "Rampore estate" is sold by a deed which contains a map of the property sold. The fact that land not included in the map had always been regarded as part of the estate and was meant to pass by the deed cannot be proved
- (d) A enters into a written contract with B to work certain mines, the property of B, upon certain terms. A was induced to do so by a misrepresentation of B's as to their value. This fact may be proved.

- (e) A institutes a suit against B for the specific performance of a contract, and also prays that the contract may be reformed as to one of its provisions, on the ground that that provision was inserted in it by mistake. A may prove that such a mistake was made as would by law entitle him to have the contract reformed.
- (f) A orders goods of B by a letter, in which nothing is said as to the time of payment, and accepts the goods on delivery. B sues A for the price. A may show that the goods were supplied on credit for a term still unexpired.
- (g) A sells B a horse and verbally warrants him sound. A gives B a paper in these words: "Bought of A a horse for Rs. 500", B may prove the verbal warranty.
- (h) A hires lodgings of B, and gives B a card on which is written "Rooms Rs. 200 a month". A may prove a verbal agreement that these terms were to include partial board.  
A hires lodgings of B for a year, and a regularly stamped agreement drawn up by a notary is made between them- it is silent on the subject of board. A may not prove that board was include^:" the terms verbally.
- (i) A applies to B for a debt due to A by sending a receipt for the money. B keeps the receipt and does not send the money. In a suit for the amount A may prove this.
- (j) A and B made a contract in writing to take effect upon the happening of a certain contingency. The writing is left with B. who sues A upon it. A may show the circumstances under which it was delivered.

**93.** When the language used in a document is on its face ambiguous or defective, evidence may not be given of facts which would show its meaning or supply its defects,

Exclusion of evidence to explain or amend ambiguous document.

*Illustrations*

- (a) A agrees in writing to sell a horse to B for "Rs. 1,000 or Rs. 1,500", Evidence cannot be given to show which price was to be given.
- (b) A deed contains blanks. Evidence cannot be given of facts which would show how they were meant to be filled.

**94.** When language used in a document is plain in itself, and when it applies accurately to existing facts, evidence may not be given to show that it was not meant to apply to such facts.

Exclusion of evidence against application of document to existing facts.

*Illustration*

A sells to B by deed "My estate at Negombo containing 100 acres". A has an estate at Negombo containing 100 acres. Evidence may not be given of the fact that the estate meant was one situated at a different place and of a different size.

Evidence as to document unmeaning in reference to existing facts.

95. When language used in a document is plain in itself, but is unmeaning in reference to existing facts, evidence may be given to show that it was used in a particular sense.

Illustration

A sells to B by deed "My house in Colombo".

A had no house in Colombo, but it appears that he had a house at Kotte, of which B had been in possession since the execution of the deed.

These facts may be proved to show that the deed related to the house at Kotte.

Evidence as to application of language which can apply to one only of several persons.

96. When the facts are such that the language used might have been meant to apply to any one, and could not have been meant to apply to more than one of several persons or things, evidence may be given of facts which show which of those persons or things it was intended to apply to.

Illustrations

(a) A agrees to sell to B for Rs. 1,000 "My white horse". A has two white horses. Evidence may be given of facts which show which of them was meant.

(b) A agrees to accompany B to Halifax. Evidence may be given of facts showing whether Halifax in Yorkshire or Halifax in Nova Scotia was meant.

Evidence as to application of language to one of two sets of facts, to neither of which the whole correctly applies.

97. When the language used applies partly to one set of existing facts and partly to another set of existing facts, but the whole of it does not apply correctly to either, evidence may be given to show to which of the two it was meant to apply.

Illustration

A agrees to sell to B "My land at X in the occupation of Y". A has land at X, but not in the occupation of Y, and he has land in the occupation of Y, but it is not at X. Evidence may be given of facts showing which he meant to sell.

Evidence as to meaning of illegible characters. &c.

98. Evidence may be given to show the meaning of illegible or not commonly intelligible characters, of foreign, obsolete, technical, local, and provincial expressions, of abbreviations, and of words used in a peculiar sense.

Illustration

A, a sculptor, agrees to sell to B "All my mods". A has both models and modelling tools. Evidence may be given to show which he meant to sell.

99. Persons who are not parties to a document, or their representatives in interest, may give evidence of any facts tending to show a contemporaneous agreement, varying the terms of the document.

Who may give evidence of agreement varying terms of document.

Illustration

A and B make a contract in writing that B shall sell A certain cotton, to be paid for on delivery. At the same time they make an oral agreement that three months' credit shall be given to A. This could not be shown as between A and B, but it might be shown by C if it affected his interests.

CHAPTER VIII

ENGLISH LAW OF EVIDENCE WHEN IN FORCE

100. Whenever in a judicial proceeding a question of evidence arises not provided for by this Ordinance or by any other law in force in Sri Lanka, such question shall be determined in accordance with the English Law of Evidence for the time being.

What questions to be determined according to English Law of Evidence.

PART III

PRODUCTION AND EFFECT OF EVIDENCE

CHAPTER IX

OF THE BURDEN OF PROOF

101. Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.

Burden of proof.

When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

*Illustrations*

(a) A desires a court to give Judgment that B shall be punished for a crime which A says B has committed.

A must prove that B has committed the crime.

(b) A desires a court to give judgment that he is entitled to certain land in the possession of B by reason of facts which he asserts, and which B denies to be true.

A must prove the existence of those facts.

On whom burden of proof lies.

**102.** The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

*Illustrations*

(a) A sues B for land of which B is in possession, and which, as A asserts, was left to A by the will of C, B's father.

If no evidence were given on either side, B would be entitled to retain his possession. Therefore the burden of proof is on A,

(b) A sues B for money due on a bond.

The execution of the bond is admitted, but B says that it was obtained by fraud, which A denies.

if no evidence were given on either side, A would succeed, as the bond is not disputed and the fraud is not proved. Therefore the burden of proof is on B,

Burden of proof as to particular fact.

**103.** The burden of proof as to any particular fact lies on that person who wishes the court to believe in its existence, unless it is provided by any law that the proof of the fact shall lie on any particular person.

*Illustrations*

A prosecutes B for theft, and wishes the court to believe that B admitted the theft to C. A must prove the admission.

B wishes the court to believe that at the time in question, he was elsewhere. He must prove it.

Burden of proving fact necessary to be proved to make evidence admissible.

**104.** The burden of proving any fact necessary to be proved in order to enable any person to give evidence of any other fact is on the person who wishes to give such evidence.

*Illustrations*

(a) A wishes to prove a dying declaration by B. A must prove B's death.

(b) A wishes to prove, by secondary evidence, the contents of a lost document.

A must prove that the document has been lost.

**105.** When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the general exceptions in the Penal Code, or within any special exception or proviso contained in any other part of the same Code, or in any law defining the offence, is upon him, and the court shall presume the absence of such circumstances.

Burden of proving that case of accused comes within exceptions.

*Illustrations*

(a) A, accused of murder, alleges that, by reason of unsoundness of mind, he did not know the nature of the act.

The burden of the proof is on A.

(b) A, accused of murder, alleges that, by grave and sudden provocation, he was deprived of the power of self-control.

The burden of proof is on A.

(c) Section 316 of the Penal Code provides that whoever, except in the case provided for by section 326, voluntarily causes grievous hurt shall be subject to certain punishments.

A is charged with voluntarily causing grievous hurt under section 316.

The burden of proving the circumstances bringing the case under section 326 lies on A.

**106.** When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

Burden of proving fact especially within knowledge of any person.

*Illustrations*

(a) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.

(b) A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him.

**107.** When the question is whether a man is alive or dead, and it is shown that he was alive within thirty years, the burden of proving that he is dead is on the person who affirms it.

Burden of proving death of person known to have been alive within thirty years.

**108.** Provided that when the question is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is shifted to the person who affirms it.

Burden of proving that person is alive who has not been heard of for seven years.

Burden of proof as to partnership, tenancy, and agency.

**109.** When the question is whether persons are partners, landlord and tenant, or principal and agent, and it has been shown that they have been acting as such, the burden of proving that they do not stand, or have ceased to stand, to each other in those relationships respectively is on the person who affirms it

Burden of proof as to ownership.

**110.** When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner.

Proof of good faith in transactions where one party is in position of active confidece.

**111.** Where there is a question as to the good faith of a transaction between parties, one of whom stands to the other in a position of active confidence, the burden of proving the good faith of the transaction is on the party who is in a position of active confidence.

*Illustrations*

- (a) The good faith of a sale by a client to an attorney-at-law is in question in a suit brought by the client. The burden of proving the good faith of the transaction is on the attorney-at-law.
- (b) The good faith of a sale by a son just come of age to a father is in question in a suit brought by the son- The burden of proving the good faith of the transaction is on the father.

Birth during marriage conclusive proof of legitimacy.

**112.** The fact that any person was born during the continuance of a valid marriage between his mother and any man, or within two hundred and eighty days after its dissolution, the mother remaining unmarried, shall be conclusive proof that such person is the legitimate son of that man, unless it can be shown that that man had no access to the mother at any time when such person could have been begotten or that he was impotent.

Presumption that a boy under twelve years cannot commit rape.

**113.** It shall be an irrebuttable presumption of the law that a boy under the age of twelve years is incapable of committing rape-

Court may presume existance of certian facts.

**114.** The court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct, and public and private business in their relation to the facts of the particular case.

*Illustrations*

The court may presume-

- (a) that a man who is in possession of stolen goods soon after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession ;
- (b) that an accomplice is unworthy of credit, unless he is corroborated in material particulars ;
- (c) that a thing or state of things which has been shown to be in existence within a period shorter than that within which such thing or state of things usually ceases to exist is still in existence;
- (d) that judicial and official acts have been regularly performed;
- (e) that the common course of business has been followed in particular cases ;
- (f) that evidence which could be and is not produced would if produced, be unfavourable to the person who withholds it;
- (g) that if a man refuses to answer a question which he is not compelled to answer by law, the answer, if given, would be unfavourable to him;
- (h) that when a document creating an obligation is in the hands of the obligor, the obligation has been discharged.

But the court shall also have regard to such facts as the following in considering whether such maxims do or do not apply to the particular case before it :-

as to illustration (a)-a shopkeeper has in his till a marked currency note soon after it was stolen, and cannot account for its possession specifically, but is continually receiving currency notes in the course of his business.

as to illustration (b)-A, a person of the highest character, is tried for causing a man's death by an act of negligence in arranging certain machinery. B, a person of equally good character, who also took part in the arrangement, describes precisely what was done, and admits and explains the common carelessness of A and himself.

as to illustration (b)- a crime is committed by several persons. A, B, and C, three of the criminals, are captured on the spot and kept apart from each other. Each gives an account of the crime implicating D, and the accounts corroborate each other in such a manner as to render previous concert highly improbable.

as to illustration (c)-it is proved that a river ran in a certain course five years ago, but it is known that there have been floods since that time which might change its course.

as to illustration (d)-a judicial act, the regularity of which is in question, was performed under exceptional circumstances.

- as to illustration (e)-the question is, whether a letter was received. It is shown to have been posted, but the usual course of the post was interrupted by disturbances.
- as to illustration (f)-a man refuses to produce a document which would bear on a contract of small importance on which he is sued, but which might also injure the feelings and reputation of his family.
- as to illustration (g)-a man refuses to answer a question which he is not compelled by law to answer, but the answer to it might cause loss to him in matters unconnected with the matter in relation to which it is asked.
- as to illustration (h)-a bond is in possession of the obligor, but the circumstances of the case are such that he may have stolen it.

117. No bailee, agent, or licensee shall be permitted to deny that the bailor, principal, or licensor, by whom any goods were entrusted to any of them respectively, was entitled to those goods at the time when they were so entrusted :

Estoppel of bailee, &c.

Provided that any such bailee, agent, or licensee may show that he was compelled to deliver up any such goods to some person who had a right to them as against his bailor, principal, or licensor, or that his bailor, principal, or licensor wrongfully, and without notice to the bailee, agent, or licensee, obtained the goods from a third person, who has claimed them from such bailee, agent, or licensee.

CHAPTER X

EXTOPPEL

Esloppel.

115. When one person has by his declaration, act, or omission intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed in any suit or proceeding between himself and such person or his representative to deny the truth of that thing.

Illustration

A intentionally and falsely leads B to believe that a certain land belongs to A, and thereby induces B to buy and pay for it.

The land afterwards becomes the property of A, and A seeks to set aside the sale, on the ground that at the time of the sale he had no title. He must not be allowed to prove his want of title.

Estoppel of tenant.

116. No tenant of immovable property, or person claiming through such tenant, shall during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property ; and

and of licensee of person in possession.

no person who came upon any immovable property by the licence of the person in possession thereof shall be permitted to deny that such person had a title to such possession at the time when such licence was given.

CHAPTER XI

OF WITNESSES

118. All persons shall be competent to testify unless the court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind.

who may testify.

Explanation, -A person of unsound mind is not incompetent to testify unless he is prevented by his unsoundness of mind from understanding the questions put to him and giving rational answers to them.

119. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or by signs ; but such writing must be written and the signs made in open court. Evidence so given shall be deemed to be oral evidence.

Dumb witnesses.

120. (1) In all civil proceedings the parties to the suit and the husband or wife of any party to the suit shall be competent witnesses.

Competent witnesses.

(2) In criminal proceedings against any person the husband or wife of such person respectively shall be a competent witness if called by the accused, but in that case all communications between them shall cease to be privileged.

(3) In criminal proceedings against a husband or wife for any bodily injury or violence inflicted on his or her wife or husband, such wife or husband shall be a competent and compellable witness.

(4) In criminal proceedings against a husband or wife for any attempt to cause any bodily injury or violence on his or her wife or husband, such wife or husband shall be a competent witness for the prosecution.

(5) In criminal proceedings against a husband or wife for an offence punishable under section 362B or 362C of the Penal Code, the wife or husband of the accused shall be a competent witness for the prosecution.

(6) In criminal trials the accused shall be a competent witness in his own behalf, and may give evidence in the same manner and with the like effect and consequences as any other witness, provided that, so far as the cross-examination relates to the credit of the accused, the court may limit the cross-examination to such extent as it thinks proper, although the proposed cross-examination might be permissible in the case of any other witness.

Judges and Magistrates.

**121.** No Judge or Magistrate shall, except upon special order of a Judge of a superior court, be compelled to answer any questions as to his own conduct in court as such Judge or Magistrate, or as to anything which came to his knowledge in court as such Judge or Magistrate ; but he may be examined as to other matters which occurred in his presence while he was so acting.

*Illustrations*

- (a) A, on his trial before the High Court, says that a deposition was improperly taken by B, the Magistrate. B cannot be compelled to answer questions as to this, except upon the special order of the Judge.
- (b) A is accused before the High Court of having given false evidence before B, a Magistrate. B cannot be asked what A said, except upon the special order of the Judge of the High Court.
- (c) A is accused before the High Court of attempting to murder a police officer whilst on his trial before B, a Magistrate. B may be examined as to what occurred.

**122.** No person who is or has been married shall be compelled to disclose any communication made to him during marriage, by any person to whom he is or has been married, nor shall he be permitted to disclose any such communication unless the person who made it, or his representative in interest, consents, except in suits between married persons, or proceedings in which one married person is prosecuted for any crime committed against the other, and except in cases mentioned in section 120 (2).

Communications during marriage.

**123.** No one shall be permitted to produce any unpublished official records relating to any affairs of State, or to give any evidence derived therefrom, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit, subject, however, to the control of the Minister.

Evidence as to affairs to State.

**124.** No public officer shall be compelled to disclose communications made to him in official confidence when he considers that the public interests would suffer by the disclosure.

Official communications.

**125.** No Magistrate or police officer shall be compelled to say whence he got the information as to the commission of any offence, and no revenue officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue or the excise laws.

Information as to commission of offences.

*Explanation.*-"Revenue officer" in this section means any officer employed in or about the business of any branch of the public revenue, or in or about the business of any Government farm.

**126.** (1) No attorney-at-law or notary shall at any time be permitted, unless with his client's express consent, to disclose any communication made to him in the course and for the purpose of his employment as such attorney-at-law or notary by or on behalf of his client, or to state the contents or conditions of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course of and for the purpose of such employment :

Professional communications.

Provided that nothing in this section shall protect from disclosure -

- (a) any such communication made in furtherance of any illegal purpose;
- (b) any fact observed by any attorney-at-law or notary in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment.

(2) It is immaterial whether the attention of such attorney-at-law or notary was or was not directed to such fact by or on behalf of his client.

*Explanation.* - The obligation stated in this section continues after the employment has ceased.

*Illustrations*

(a) A, a client, says to B, an attorney-at-law, " I have committed forgery, and I wish you to defend me."

As the defence of a man known to be guilty is not a criminal purpose, this communication is protected from disclosure.

(b) A, a client says to B, an attorney-at-law, " I wish to obtain possession of property by the use of a forged deed, on which I request you to sue".

This communication, being made in furtherance of a criminal purpose is not protected from disclosure.

(c) A, being charged with embezzlement, retains B, an attorney-at-law, to defend him. In the course of the proceedings B observes that an entry has been made in A's account book charging A with the sum said to have been embezzled, which entry was not in the book at the commencement of his employment.

This being a fact observed by B in the course of his employment, showing that a fraud has been committed since the commencement of the proceedings, it is not protected from disclosure.

**127.** The provisions of section 126 shall apply to interpreters and the clerks or servants of attorneys-at-law and notaries.

**128.** If any party to a suit gives evidence therein at his own instance or otherwise, he shall not be deemed to have consented thereby to such disclosure as is mentioned in section 126, and if any party to a suit or proceeding calls any such attorney-at-law or notary as a witness, he

shall be deemed to have consented to such disclosure only if he questions such attorney-at-law or notary on matters which but for such questions, he would not be at liberty to disclose.

129. No one shall be compelled to disclose to the court any confidential communication which has taken place between him and his legal professional adviser, unless he offers himself as a witness, in which case he may be compelled to disclose any such communications as may appear to the court necessary to be known in order to explain any evidence which he has given, but no others.

Confidential communications with legal advisers.

130. (1) No witness who is not party to a suit shall be compelled to produce his title deeds to any property, or any document in virtue of which he holds any property as pledgee or mortgagee, or any document the production of which might tend to criminate him, unless he has agreed in writing to produce them with the person seeking the production of such deeds or some person through whom he claims.

production of witness's title deeds.

(2) No witness who is a party to the suit shall be bound to produce any document in his possession or power which is not relevant or material to the case of the party requiring its production.

By a party to the suit.

(3) No bank shall be compelled to produce the books of such bank in any legal proceeding to which such bank is not a party, except as provided by section 90D.

Bankers' books.

**131.** No one shall be compelled to produce documents in his possession which any other person would be entitled to refuse to produce if they were in his possession (except for the purpose of identification), unless such last-mentioned person consents to their production, nor shall any one who is entitled to refuse to produce a document be compelled to give oral evidence of its contents.

Who may not be compelled to produce documents.

**132.** (1) A witness shall not be excused from answering any question as to any matter relevant to the matter in issue in any suit or in any civil or criminal proceeding upon the ground that the

Witness not excused from answering on ground that answer will criminate.

Section 126 to apply to clerks, and servants of attorneys-at-law and notaries.

Privilege not waived by volunteering evidence,



answer to such question will criminate or may tend directly or indirectly to criminate such witness, or that it will expose or tend directly or indirectly to expose such witness to a penalty or forfeiture of any kind, or that it will establish or tend to establish that he owes a debt, or is otherwise subject to a civil suit at the instance of the State or of any other person.

(2) If the fact proposed to be proved is one of which evidence is admissible only upon proof of some other fact, such last-mentioned fact must be proved before evidence is given of the fact first mentioned, unless the party undertakes to give proof of such fact, and the court is satisfied with such undertaking.

(3) If the relevancy of one alleged fact depends upon another alleged fact being first proved, the Judge may in his discretion either permit evidence of the first fact to be given before the second fact is proved, or require evidence to be given of the second fact before evidence is given of the first fact.

Not liable for prosecution for such answer (2) No answer which a witness shall be compelled by the court to give shall subject him to any arrest or prosecution, or be proved against him in any criminal proceeding, except a prosecution for giving false evidence by such answer.

Court shall explain subsection (2). (3) Before compelling a witness to answer a question the answer to which will criminate or may tend directly or indirectly to criminate such witness, the court shall explain to the witness the purport of the last preceding subsection.

Accomplice. **133.** An accomplice shall be a competent witness against an accused person, and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.

Number of witnesses. **134.** No particular number of witnesses shall in any case be required for the proof of any fact.

*Illustrations*

(a) It is proposed to prove a statement about relevant fact by a person alleged to be dead, which statement is relevant under section 32.

The fact that the person is dead must be proved by the person proposing to prove the statement before evidence is given of the statement.

(b) It is proposed to prove by a copy the contents of a document said to be lost.

The fact that the original is lost must be proved by the person proposing to produce the copy before the copy is produced.

(c) A is accused of receiving stolen property knowing it to have been stolen.

It is proposed to prove that he denied the possession of the property.

The relevancy of the denial depends on the identity of the property. The court may in its discretion either require the property to be identified before the denial of the possession is proved, or permit the denial of the possession to be proved before the property is identified.

(d) It is proposed to prove a fact (a) which is said to have been the cause or effect of a fact in issue. There are several intermediate facts, (b), (c), and (d), which must be shown to exist before the fact (a) can be regarded as the cause or effect of the fact in issue. The court may either permit (a) to be proved before (b), (c), or (d) is proved, or may require proof of (b), (c), and (d) before permitting proof of (a).

**CHAPTER XII**

**OF THE EXAMINATION OF WITNESSES**

Order of production and examination of witness. **135.** The order in which witnesses are produced and examined shall be regulated by the law and practice for the time being relating to civil and criminal procedure respectively and, in the absence of any such law, by the discretion of the court.

Judge to decide as to admissibility of evidence. **136.** (1) When either party proposes to give evidence of any fact, the Judge may ask the party proposing to give the evidence in what manner the alleged fact, if proved, would be relevant; and the Judge shall admit the evidence if he thinks that the fact, if proved, would be relevant, and not otherwise.

137. (1) The examination of a witness by the party who calls him shall be called his examination-in-chief. Examination-in-chief.

(2) The examination of a witness by the adverse party shall be called his cross-examination. Cross-examination.

Re-examination. (3) The examination of a witness subsequent to the cross-examination by the party who called him, shall be called his re-examination.

Order of examinations. 138. (1) Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party calling him so desires) re-examined.

Examination and cross-examination. (2) The examination and cross-examination must relate to relevant facts, but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief.

Re-examination. (3) The re-examination shall be directed to the explanation of matters referred to in cross-examination and if new matter is, by permission of the court, introduced in re-examination, the adverse party may further cross-examine upon that matter.

Further examination and cross-examination. (4) The court may in all cases permit a witness to be recalled either for further examination-in-chief or for further cross-examination, and if it does so the parties have the right of further cross-examination and re-examination respectively.

Cross-examination of person called to produce a document. 139. A person summoned to produce a document does not become a witness by the mere fact that he produces it, and cannot be cross-examined unless and until he is sailed as a witness.

Witnesses to character. 140. Witnesses to character may be cross-examined and re-examined.

Leading questions. 141. Any question suggesting the answer which the person putting it wishes or expects to receive is called a leading question.

When leading questions must not be asked. 142. Leading questions must not, if objected to by the adverse party, be asked in an examination-in-chief or in a re-examination, except with the permission of the court.

143. (1) Leading questions may be asked in cross-examination, subject to the following qualifications :-

- (a) the question must not put into the mouth of the witness the very words which he is to echo back again; and
(b) the question must not assume that facts have been proved which have not been proved, or that particular answers have been given contrary to the fact.

(2) The court in its discretion may prohibit leading questions from being put to a witness who shows a strong interest or bias in favour of the cross-examining party. Court may prohibit leading questions.

144. Any witness may be asked, whilst under examination whether any contract, grant, or other disposition of property as to which he is giving evidence, was not contained in a document, and if he says that it was, or if he is about to make any statement as to the contents of any document which, in the opinion of the court, ought to be produced, the adverse party may object to such evidence being given until such document is produced, or until facts have been proved which entitle the party who called the witness to give secondary evidence of it. Evidence as to matters in writing.

Explanation.-A witness may give oral evidence of statements made by other persons about the contents of documents if such statements arc in themselves relevant facts.

Illustration

The question is. whether A assaulted B. C deposes that he heard A say to D, "B wrote a letter accusing me of theft, and I will be revenged on him". This statement is relevant as showing A's motive for the assault, and evidence may be given of it, though no other evidence is given about the letter.

145. (1) A witness may be cross-examined as to previous statements made by him in writing or reduced into writing and relevant to matters in question without such writing being shown to him, or being proved ; but if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him. Cross-examination as to previous statements in writing.

As to proof of previous statement.

(2) If a witness, upon cross-examination as to a previous oral statement made by him relevant to matters in question in the suit or proceeding in which he is cross-examined and inconsistent with his present testimony, does not distinctly admit that he made such statement, proof may be given that he did in fact make it ; but before such proof can be given the circumstances of the supposed statement sufficient to designate the particular occasion must be mentioned to the witness, and he must be asked whether or not he made such a statement.

Questions lawful in cross-examination.

**146.** When a witness is cross-examined, he may, in addition to the questions hereinbefore referred to, be asked any questions which tend -

- (a) to test his accuracy, veracity, or credibility;
- (b) to discover who he is, and what is his position in life ; or
- (c) to shake his credit, by injuring his character;

although the answer to such questions might tend directly or indirectly to criminate him, or might expose or tend directly or indirectly to expose him to a penalty or forfeiture.

When witness to be compelled to answer.

**147.** If any such question relates to a matter relevant to the suit or proceeding, the provisions of section 132 shall apply thereto,

Court to decide when witness shall be compelled to answer.

**148.** (1) If any such question relates to a matter not relevant to the suit or proceeding, except in so far as it affects the credit of the witness by injuring his character, the court shall decide whether or not the witness shall be compelled to answer it, and may, if it thinks fit, warn the witness that he is not obliged to answer it.

(2) In exercising its discretion, the court shall have regard to the following considerations :-

- (a) such questions are proper if they are of such a nature that the truth of the imputation conveyed by them would seriously affect the opinion of the court as to the credibility of the witness on the matter to which he testifies;

(b) such questions are improper if the imputation which they convey relates to matters so remote in time, or of such a character that the truth of the imputation would not affect, or would affect in a slight degree, the opinion of the court as to the credibility of the witness on the matter to which he testifies ;

(c) such questions are improper if there is a great disproportion between the importance of the imputation made against the witness's character and the importance of his evidence;

(d) the court may, if it sees fit, draw from the witness's refusal to answer the inference that the answer if given would be unfavourable.

**149.** No such question as is referred to in section 148 ought to be asked unless the person asking it has reasonable grounds for thinking that the imputation which it conveys is well founded.

Question not to be asked without reasonable grounds.

*Illustrations*

- (a) An attorney-at-law is instructed that an important witness is a thief. This is a reasonable ground for asking the witness whether he is a thief.
- (b) An attorney-at-law is informed by a person in court that an important witness is a professional gambler. The informant, on being questioned by the attorney-at-law, gives satisfactory reasons for his statement. This is a reasonable ground for asking the witness whether he is a professional gambler.
- (c) A witness, of whom nothing whatever is known, is asked at random whether he is a thief. There are here no reasonable grounds for the question.
- (d) A witness, of whom nothing whatever is known, being questioned as to his mode of life and means of living, gives unsatisfactory answers. This may be a reasonable ground for asking if he is a professional gambler.

**150.** If the court is of opinion that any such question was asked without reasonable grounds, it may, if it was asked by any attorney-at-law, report the circumstances of the case to the Supreme Court or other authority to which such attorney-at-law is subject in the exercise of his profession.

Procedure of court in case of question being asked without reasonable grounds.

Indecent and scandalous questions.

**151.** 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 facts in issue existed.

Questions intended to insult or annoy.

**152.** 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.

Exclusion of evidence to contradict answers to questions testing veracity.

**153.** When a witness has been asked and has answered" any question which is relevant to the inquiry only in so far as it tends to shake his credit by injuring his character, no evidence shall be given to contradict him ; but if he answers falsely, he may afterwards be charged with giving false evidence.

*Exception 1.*-If a witness is asked whether he has been previously convicted of any crime and denies it, evidence may be given of his previous conviction.

*Exception 2.*-If a witness is asked any question tending to impeach his impartiality, and answers it by denying the facts suggested, he may be contradicted.

*Illustrations*

(a) A claim against an underwriter is resisted on the ground of fraud.

The claimant is asked whether, in a former transaction, he had not made a fraudulent claim. He denies it.

Evidence is offered to show that he did make such a claim.

The evidence is inadmissible.

(b) A witness is asked whether he was not dismissed from a situation for dishonesty. He denies it.

Evidence is offered to show that he was dismissed for dishonesty.

The evidence is not admissible.

(c) A affirms that on a certain day he saw B at Jaffna.

A is asked whether he himself was not on that day at Colombo. He denies it.

Evidence is offered to show that A was on that date at Colombo.

The evidence is admissible, not as contradicting A on a fact which affects his credit, but as contradicting the alleged fact that B was seen on the day in question in Jaffna.

In each of these cases the witness might, if his denial was false, be charged with giving false evidence.

(d) A is tried for a "rape" on B, B is asked in cross-examination whether she has not had illicit intercourse with C and D. She denies it. Evidence is offered to show that she has had such intercourse with C and D, The evidence is not admissible.

(e) A is asked whether he has not said that he would be revenged on B, against whom he gives evidence. He denies it. He may be contradicted on the ground that the question tends to impeach his impartiality.

**154.** The court may in its discretion permit the person who calls a witness to put any question to him which might be put in cross-examination by the adverse party.

Questions by party to his own witness.

**155.** The credit of a witness may be impeached in the following ways by the adverse party or, with the consent of the court, by the party who calls him :-

impeaching credit of witness.

(a) by the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit;

(b) by proof that the witness has been bribed or has accepted the offer of a bribe, or has received any other corrupt inducement to give his evidence;

(c) by proof of former statements inconsistent with any part of his evidence which is liable to be contradicted ;

(d) when a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix was of generally immoral character.

*Explanation.*-A witness declaring another witness to be unworthy of credit may not, upon his examination-in-chief, give reasons for his belief, but he may be asked his reasons in cross-examination, and the answers which he gives cannot be contradicted, though, if they are false, he may afterwards be charged with giving false evidence.

*Illustrations*

(a) A sues B for the price of goods sold and delivered to B. C says that he delivered the goods to B.

Evidence is offered to show that, on a previous occasion, he said that he had not delivered the goods to B.

The evidence is admissible.

(b) A is indicted for the murder of B.  
 C says that B, when dying, declared that A had given B the wound of which he died.  
 Evidence is offered to show that, on a previous occasion. C said that the wound was not given by A or in his presence.  
 The evidence is admissible.

Questions tending to corroborate evidence of relevant fact admissible.

**156.** When a witness whom it is intended to corroborate gives evidence of any relevant fact, he may be questioned as to any other circumstances which he observed at or near to the time or place at which such relevant fact occurred, if the court is of opinion that such circumstances, if proved, would corroborate the testimony of the witness as to the relevant fact which he testifies.

*Illustration*

A, an accomplice, gives an account of a robbery in which he took part. He describes various incidents unconnected with the robbery which occurred on his way to and from the place where it was committed.  
 Independent evidence of these facts may be given in order to corroborate his evidence as to the robbery itself.

Former statement of witness may be proved to corroborate later testimony as to same facts.

**157.** In order to corroborate the testimony of a witness, any former statement made by such witness, whether written or verbal, relating to the same fact at or about the time when the fact took place or before any authority legally competent to investigate the fact, may be proved.

What matters may be proved in connection with proved statement relevant under section 32 or 33.

**158.** Whenever any statement relevant under section 32 or 33 is proved, all matters may be proved either in order to contradict or to corroborate it, or in order to impeach or confirm the credit of the person by whom it was made, which might have been proved if that person had been called as a witness and had denied upon cross-examination the truth of the matter suggested.

Refreshing memory.

**159.** (1) A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time of the transaction concerning which he is questioned or so soon afterwards that the court considers it likely that the transaction was "at that time fresh in his memory.

(2) The witness may also refer to any such writing made by any other person, and read by the witness within the time aforesaid, if when he read it he knew it to be correct.

By writing made by another.

(3) Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the court, refer to a copy of such document:

When witness may use copy of document to refresh memory.

Provided the court be satisfied that there is sufficient reason for the non-production of the original.

(4) An expert may refresh his memory by reference to professional treatises.

By professional treatises.

**160.** A witness may also testify to facts mentioned in any such document as is mentioned in section 159, although he has no specific recollection of the facts themselves, if he is sure that the facts were correctly recorded in the document.

Testimony to facts stated in document mentioned in section 159.

*Illustration*

A book-keeper may testify to facts recorded by him in books regularly kept in the course of business, if he knows that the books were correctly kept, although he has forgotten the particular transactions entered,

**161.** Any writing referred to under the provisions of the two last preceding sections must be produced and shown to the adverse party if he requires it; such party may, if he pleases, cross-examine the witness thereupon.

Right of adverse party as to writing used to refresh memory.

**162.** (1) A witness summoned to produce a document shall, if it is in his possession or power, bring it to court, notwithstanding any objection which there may be to its production or to its admissibility. The validity of any such objection shall be decided on by the court.

Production of documents.

(2) The court, if it sees fit, may inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility.

Court may take evidence to enable it to determine admissibility of document.

(3) If for such a purpose it is necessary to cause any document to be translated, the court may, if it thinks fit, direct the translator to keep the contents secret, unless the document is to be given in evidence, and if the translator disobeys such direction he shall be held to have committed an offence under section 162 of the Penal Code.

Translation of documents.

Giving as evidence, of document called for and produced on notice.

163. When a party calls for a document which he has given the other party notice to produce, and such document is produced and inspected by the party calling for its production he is bound to give it as evidence, if the party producing it requires him to do so, and if it is relevant.

Provided also that this section shall not authorize any Judge to compel any witness to answer any question, or to produce any document, which such witness would be entitled to refuse to answer or produce under sections 121 to 131 both inclusive, if the question were asked or the document were called for by the adverse party; nor shall the Judge ask any question which it would be improper for any other person to ask under section 148 or 149 ; nor shall he dispense with primary evidence of any document, excepting the cases herein before excepted.

Using as evidence, of document production of which was refused on notice.

164. When a party refuses to produce a document which he has had notice to produce, he cannot afterwards use the document as evidence without the consent of the other party or the order of court.

Illustration

A sues B on an agreement, and gives B notice to produce, it. At the trial A calls for the document and B refuses to produce it. A gives secondary evidence of its contents. B seeks to produce the document itself to contradict the secondary evidence given by A, or in order to show that the agreement is not stamped. He cannot do so.

166. In cases tried by jury or with assessors, the jury or assessors may put any questions to the witnesses, through or by leave of the Judge, which the Judge himself might put, and which he considers proper-

Power of jury or assessors to put questions.

Judge's power to put questions or order production.

165. The Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties, about any fact relevant or irrelevant; and may order the production of any document or thing ; and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the court, to cross-examine any witness upon any answer given in reply to any such question:

Provided that the judgment must be based upon facts declared by this Ordinance to be relevant and duly proved :

167. The improper admission or rejection of evidence shall not be ground of itself for a new trial or reversal of any decisions in any case, if it shall appear to the court before which such objection is raised that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.

No new trial for improper admission or rejection of evidence.

CHAPTER XIII

OF IMPROPER ADMISSION AND REJECTION OF EVIDENCE

CHAPTER 64

EXCISE

Ordinances

Nos. 8 of 1912,  
25 of 1914,  
17 of 1929,  
4 of 1931,  
3 of 1933,  
4 of 1936,  
25 of 1938,  
27 of 1943

Acts

Nos. 41 of 1954,  
22 of 1955,  
9 of 1956,  
36 of 1957,  
49 of 1961,  
17 of 1962,  
8 of 1965,

Laws

Nos. 27 of 1974,  
14 of 1977.

AN ORDINANCE TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE IMPORT, EXPORT, TRANSPORT, MANUFACTURE, SALE, AND POSSESSION OF INTOXICATING LIQUOR AND OF INTOXICATING DRUGS.

{1st January, 1913.}

CHAPTER I

PRELIMINARY

administration of the Excise Department and of the collection of : the excise revenue;

Short title. 1. This Ordinance may be cited, as the Excise Ordinance.

"excise officer" means a Government Agent, Assistant Government Agent, or any officer or other person appointed or invested with powers under section 8 ;

interpretation. 2. In this Ordinance, unless there be something repugnant in the subject or context—

" excise revenue " means revenue derived or derivable from any duty, fee, tax, fine (other than a fine imposed by a court of law), or confiscation imposed or ordered under the provisions of this Ordinance or of any other law for the time being in force relating to liquor;

"beer" includes ale, stout, porter, and all other fermented liquors made from malt;

"country liquor" means any liquor manufactured in Sri Lanka on which duty of excise has not been levied or is not leviable at the full rate of duty chargeable on like liquor imported into Sri Lanka from foreign countries;

" export " means to take out of Sri Lanka to sea or to foreign territory;

"denatured" means effectually and permanently rendered unfit for human consumption;

" foreign liquor " includes all liquor other than country liquor:

"excisable article" means and includes any liquor as defined by this Ordinance;

Provided that, in any case in which doubt may arise, the Minister may by notification declare, whether for the purposes of this Ordinance or any rules made thereunder, any particular liquor shall be deemed to be "country liquor " or " foreign liquor ";

" Excise Commissioner" means the officer who has the control of the

- " import " means to bring into Sri Lanka from sea or from any place beyond the limits of Sri Lanka;
- " liquor " includes spirits of wine, spirit, wine, toddy, beer, and all liquid consisting of or containing alcohol; also any substance which the Minister may by notification declare to be liquor for the purposes of this Ordinance;
- " manufacture " includes every process, whether natural or artificial, by which any excisable article is produced or prepared, and also re-distillation, and every process for the rectification, flavouring, blending, or colouring of liquor;
- " place " includes a house, building, shop, tent, boat, or other vessel;
- " sale " or " selling " includes any transfer otherwise than by way of gift;
- " spirit " means any liquor containing alcohol obtained by distillation, whether it is denatured or not ;
- to " bottle " means to transfer liquor from a cask or other receptacle to a bottle or other receptacle for the purpose of sale, whether any process of manufacture be employed or not, and includes re-bottling ;
- to " tap " includes every part of any process by which the spathe or flower of any toddy-producing tree is prepared for the drawing of toddy;
- " toddy " means fermented or unfermented juice drawn from any coconut, palmyra, kitul, or other kind of palm tree;
- " transport " means to move from one place to another within Sri Lanka.
3. The Minister may by notification either wholly or partially exempt any excisable article from all or any of the provisions of this Ordinance, either throughout Sri Lanka or in any specified area, or for any specified period or occasion, or as regards any specified class of persons, and may attach such conditions as he thinks fit to such exemption. Power of Minister to exempt excisable articles from the provisions of this Ordinance.
4. The Minister may by notification declare, with respect either to the whole of Sri Lanka or to any local area, and as regards purchasers generally or any specified class of purchasers, and generally or for any specified occasion, what quantity of any excisable article shall, for the purposes of this Ordinance, be the limit of sale by retail and sale by wholesale respectively. Limits of sale.
5. Nothing contained in this Ordinance shall apply to any canteen, shop, or tavern opened or kept under military or naval regulations and subject to the supervision of military or naval officers. Saving of military and naval canteens.

## CHAPTER II

### ESTABLISHMENT AND CONTROL

6. Except as otherwise provided by this Ordinance, the collection of the excise revenue shall be under the charge of the Government Agent. The collection of the excise revenue to lie with the Government Agent.
7. There shall be appointed—
- (a) an Excise Commissioner who shall, subject to the general direction and control of the Minister, have the control of the administration of the Excise Department and of the collection of excise revenue, and exercise all or any of the powers, and perform all or any of the duties, of a Government Agent under this Ordinance, either concurrently with him or in his place, and
- (b) such officers of the Excise Department as may be necessary to give effect to the provisions of this Ordinance. Appointment of Excise Commissioner and other officers of Excise Department. [§ 2, 36 of 1957.]
8. The Minister may by notification Powers of applicable to the whole of Sri Lanka or to any district or local area in which this Ordinance is in force— Minister.



**CHAPTER III**

**IMPORT, EXPORT, AND TRANSPORT**

May appoint persons other than the Government Agent to exercise all or any of his powers.

(a) appoint any person other than the Government Agent to exercise all or any of the powers and to perform all or any of the duties of a Government Agent in respect of the excise revenue, either concurrently with or in exclusion of the Government Agent, subject to such control as the Minister may direct;

May appoint officers to take action under sections 33, 35, and 48(o), and other officers.

(b) appoint officers or persons to perform the acts and duties mentioned in sections 33, 35, and 48 (a);

(c) set out the designations, powers and duties of officers of the Excise Department under the Ordinance ;

May appoint any Government officer or other person to act as above.

(d) order that all or any of the powers and duties assigned to any officer under paragraphs (b) and (c) of this section shall be exercised and performed by any Government officer or any person;

May delegate any of his powers to any excise officer.

(e) delegate to any excise officer in whole or in part all or any of his powers under the following sections of this Ordinance :—sections 8 (c), 12,14, 19,20,24,25;

May withdraw powers.

(f) withdraw from any officer or person any or all of the powers conferred or imposed upon him by or under this Ordinance;

And may permit delegation of powers.

(g) permit the delegation by the Excise Commissioner or by Government Agents of any powers conferred by this Ordinance, or exercised in respect of excise revenue under any enactment for the time being in force.

Orders of Excise Commissioner or Government Agents appealable to Minister.

**9.** (1) All orders passed by the Excise Commissioner or by a Government Agent under this Ordinance shall be appealable to the Minister in the manner provided by the rules made under section 32 (2) (c).

(2) On any such appeal the Minister may make such orders as the circumstances may require.

**10.** No excisable article which is liable to the payment of duty under this Ordinance or under the Customs Ordinance, or any other law for the time being in force relating to the duties of customs on goods imported into Sri Lanka, shall be imported, unless the duty prescribed by such law has been paid, or a bond executed for the payment of such duty.

Import of excisable articles.

**11.** No excisable article which has been manufactured in Sri Lanka shall be exported unless the duty, if any, leviable under this Ordinance or under the Customs Ordinance, has been paid, or a bond executed for the payment of such duty.

Export of excisable articles.

**12.** The Minister may by notification prohibit the import or export of any excisable article, and may permit the import or export of any excisable article subject to such conditions and to the payment of such duty as he may think fit, and may prohibit the transport of any excisable article from any local area into any other local area.

Prohibition of import, export, and transport of excisable articles.

**13.** No excisable article exceeding such quantity as the Minister may prescribe by notification, either generally for the whole of Sri Lanka or for any local area, shall be imported, exported, or transported, except under a pass issued under the provisions of the next following section:

Pass required for import, export, and transport of excisable articles.

Provided that in the case of duty paid foreign liquor other than denatured spirit, such passes shall not be necessary, unless the Minister shall by notification otherwise direct with respect to any local area.

**14.** (1) Passes for the import, export, or transport of excisable articles may be granted by the Government Agent. Such passes may be either general for definite periods and kinds of excisable articles, or special for specified occasions and particular consignments only-

Passes for import, export, or transport.

(2) Passes granted under this section shall be in such form, and shall contain such particulars, and be granted to such persons as the Minister may, by notification prescribe.

CHAPTER IV

MANUFACTURE, POSSESSION, AND SALE

Manufacture of excisable articles prohibited except under provisions of this Ordinance.

15. Except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Government Agent, or under the provisions of section 20—

- (a) no excisable article shall be manufactured;
- (b) no toddy-producing tree shall be tapped;
- (c) no toddy shall be drawn from any tree;
- (d) no distillery, brewery, or warehouse shall be established or worked;
- (e) no person shall use, keep, or have in his possession any materials, still, utensils, implement, or apparatus whatsoever for the purpose of manufacturing any excisable article other than toddy;
- (f) no liquor shall be bottled for sale.

Establishment of distilleries, breweries, and warehouses.

16. (1) The Excise Commissioner may—

- (a) establish or authorize the establishment of distilleries and breweries in which liquor may be manufactured under a licence granted under section 15 on such conditions as the Minister deems fit to impose;
- (b) establish or authorize the establishment of warehouses wherein any excisable article may be deposited and kept without payment of duty ; and
- (c) subject to the provisions of sections . 27 and 28 discontinue any distillery, brewery, or warehouse.

(2) No distillery, brewery, or warehouse as aforesaid shall be established or worked except by, or under the authority of, the Excise Commissioner.

17. No person not-being a licensed manufacturer or vendor of any excisable article shall have in his possession any quantity of any excisable article in excess of such quantity as the Minister under section 4 may declare to be the limit of sale by retail, unless under a permit granted by the Government Agent in that behalf:

Possession of excisable articles in excess of the quantity prescribed by Government prohibited.

Provided that—

- (i) no fee shall be charged for any such permit granted for the possession of such excisable article for bona fide private consumption or use;
- (ii) nothing in this section extends to any foreign liquor other than denatured spirit in the possession of any common carrier or warehouseman as such, or purchased by any person for his bona fide private consumption and not for sale;
- (iii) the Minister may by notification prohibit the supply to, or possession by, any person or class of persons, either throughout the whole of Sri Lanka or in any local area, of any excisable article, either absolutely or subject to such conditions as he may prescribe.

No fee to be charged for permit for possession for private consumption. Section not to apply to foreign liquor other than denatured spirit.

Prohibition of possession in certain cases.

18. No excisable article shall be sold, or kept or exposed for sale, without a licence from the Government Agent:

Sale of excisable articles without licence prohibited.

Provided that —

- (o) a person having the right to the toddy drawn from any tree may sell the same without a licence to a person licensed to manufacture and sell toddy under this Ordinance or to a person licensed under this Ordinance to manufacture arrack or vinegar from toddy;
- (b) a licence for sale in more than one administrative district shall be granted by the Excise Commissioner;
- (c) nothing in this section applies to the sale of any foreign liquor legally procured by any person for his private use and sold by him or by auction on his behalf, or on behalf

of his representatives in interest upon his quitting a station or after his decease.

Exclusive privileges of manufacture, &c., may be granted.

19. (1) The Excise Commissioner may with the approval of the Minister grant to any person on such conditions and for such period as he may deem fit the exclusive privilege—

- (a) of manufacturing, or of supplying by wholesale, or of both ; or
- (b) of selling by wholesale or by retail; or
- (c) of manufacturing, or of supplying by wholesale, or of both, and of selling by retail,

any country liquor within any local area; or

- (d). of selling any foreign liquor by retail in a tavern within any local area under a tavern licence prescribed by rule made under section 32 or by direction of the Minister issued under section 25.

(2) No grantee of any privilege under this section shall exercise the same until he has received a licence in that behalf from the Government Agent.

Power of Government Agent to take possession of premises for certain purposes. [2,17 of 1962]

19A. (1) It shall be lawful for the Government Agent of any Administrative District (hereinafter referred to as the "Government Agent"), with the prior approval of the Minister, to take possession of any premises, formerly used for the purposes mentioned in paragraphs (a) and (b) of this subsection, situated within such Administrative District and to give such written directions as appear to him to be necessary or expedient in connexion with the taking of possession of such premises in any case where it appears to him that the premises are required—

- (a) for any one or more of the following purposes:—
  - (i) manufacturing, or
  - (ii) storing, or
  - (iii) supplying by wholesale, or
  - (iv) selling by wholesale, or
  - (v) selling by retail,

any country liquor within any local area, or

- (b) for the purpose of selling any foreign liquor by retail in a tavern within any local area under a tavern licence in that behalf from the Government Agent.

(2) Any police officer shall, if requested so to do by the Government Agent, take such steps and use such force as may be reasonably necessary for securing compliance with directions given under subsection (1) in relation to the taking, or giving up, of possession of any premises.

(3) The period during which possession may be retained of any premises of which possession is taken under subsection (1) shall be fixed by the Government Agent at the time of taking of possession, but such period may from time to time be varied by the Government Agent.

(4) It shall be lawful for the Government Agent, for the whole or a part of the time during which he is in possession of any premises under this section, to permit the occupation of the premises by any person (hereinafter called the " occupant " ).

(5) The occupant shall pay compensation, calculated in the manner set out in subsection (6), to the person to whom rent would have been payable if the Government Agent had not taken possession of the premises and if the occupant was a tenant in respect of the premises of which he is in occupation.

(6) The amount of compensation referred to in subsection (5) in respect of any premises shall be a sum equal to the rent which, in the opinion of the Government Agent, might reasonably be expected to be payable by a tenant in occupation of the premises, where the tenant undertook to pay all usual rates and to bear the cost of the repairs:

Provided, however, that in the case of any premises to which the Rent Act applies, the amount of the rent shall not exceed the authorized rent of the premises as determined under that Act.

(7) The occupant shall pay all usual rates and bear the cost of the repairs.

(8) Compensation under subsection (5) shall be considered as accruing due from day to day for the period during which

the premises are permitted to be occupied under subsection (4), and be apportionable in respect of time accordingly, and shall be payable in respect of any particular month not later than the tenth day of the month next following.

(9) In any case where a dispute arises as to the person to whom any compensation under subsection (5) in respect of any premises is payable, the provisions of sections 10 to 14 of the Land Acquisition Act shall, in so far as may be, apply in like manner as they apply where any land is to be acquired under that Act.

(10) Any person who is dissatisfied with the manner in which the amount of compensation has been calculated under subsection (6) may appeal to have that amount revised to the Board of Review constituted under section 19 of the Land Acquisition Act; and the provisions of subsections (2) and (3) of section 22 of that Act and of sections 23 to 28 of that Act shall, mutatis mutandis, apply in relation to any appeal so preferred.

Grantee of toddy privileges may grant licence.

20. When any exclusive privilege of manufacturing and selling toddy has been granted under section 19, the Minister may declare that the written permission of the grantee to draw toddy shall have the same force and effect as a licence from the Government Agent for that purpose under section 15.

Grantee may let or assign.

21. Subject to any conditions imposed by section 19, and subject to the approval of the Government Agent, any grantee of any exclusive privilege may let or assign the whole or any portion of his privilege; but no lessee or assignee of such privilege shall exercise any rights as such unless and until the grantee shall have applied to the Government Agent for a licence to be given to such lessee or assignee, and such lessee or assignee shall have received the same.

CHAPTER V

DUTIES ON EXCISABLE ARTICLES

Duties may be imposed by the Minister by Order published in the Gazette, [§3,49 of 1961]

22. (1) The Minister with the concurrence of the Minister in charge of the subject of Finance may, by Order published in the Gazette, from time to time impose a duty at such rate or rates, either generally or for any specified local area, on any excisable article—

- (a) permitted to be imported or exported in accordance with the provisions of section 11 or section 12; or
- (b) permitted to be transported; or
- (c) manufactured under any licence granted in respect of paragraphs (a) (b), (c), and (d) of section 15 ; or
- (d) manufactured in any distillery or brewery established under section 16.

Explanation.—Duty may be imposed under this section at different rates according to the places to which any excisable article is to be removed for consumption.

(2) The power conferred by subsection [§3,49 of 1961.] (1) to impose by Order published in the Gazette a duty on any excisable article referred to therein shall include the power—

- (a) by the same or a subsequent Order to grant any exemption from the duty and to specify the circumstances in which, and the conditions subject to which, the exemption is granted;
- (b) by a subsequent Order to amend any earlier Order so as to increase or reduce the duty or vary the description of the article or the scope of any exemption granted to any class or description of the article or include within or exclude from the scope of the earlier Order any class or description of such article; and
- (c) by a subsequent Order to rescind any earlier Order so as to abolish any duty or withdraw any exemption.

(3) Every Order under subsection (1) [§3,49 of 1961.] 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, and shall be brought before Parliament within a period of one month from the date of the publication of the Order in the Gazette, or, if no meeting of Parliament is held within such period, at the first meeting of Parliament held after the expiry of such

period, by a motion that the Order shall be approved. There shall be set out in a schedule to every such motion the text of the Order to which the motion refers.

[§3,49 of 1961.] (4) Any Order under subsection (1) which Parliament refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked but without prejudice to the validity of anything done thereunder. Notification of the date on which any such Order is deemed to be revoked shall be published in the Gazette.

How duty may be levied.

23. Subject to such rules regulating the time, place, and manner of payment as the Minister may prescribe, such duty may be levied in one or more of the following ways:—

- (a) with reference to paragraph (a) of section 22 (1)~
  - (i) by payment of duty either at the place of import OF at the place of export, or
  - (ii) by payment upon issue for sale from a warehouse established under section 16(1) (b) or licensed under section 15 (d);
- (b) with reference to paragraph (b) of section 22(1)—
  - (i) by payment in the district from which the excisable article is to be transported, or
  - (ii) by payment upon issue for sale from a warehouse established under section 16(1) (b) or licensed under section 15 {d);

- (c) with reference to paragraphs (c) and (d) of section 22(1)—

by duty to be charged in the case of spirit or beer, either—

- (i) on the quantity produced in, or issued from, the distillery or brewery, as the case may be, or issued from a warehouse established under section 16(1) (b) or licensed under section 15 (d), or

(ii) in accordance with such scale of equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as the Minister may prescribe;

- (d) generally by such other methods of taxation as Parliament may, by resolution, from time to time appoint.

24. Instead of, or in addition to any duty leviable under this Part, the Excise Commissioner may accept payment of a sum in consideration of the grant of any exclusive privilege under section 19.

Payment for exclusive privileges.

## CHAPTER VI

### LICENCES, &c.

25. Every licence, permit, or pass Form and granted under this Ordinance shall be conditions of granted—  
licences, &c.

- (a) on payment of such fees, if any ;
- (b) for such period;
- (c) subject to such restrictions and on such conditions; and
- (d) shall be in such form and contain • such particulars as the Minister may direct either generally or in any particular instance in this behalf.

26. Every person taking out a licence under this Ordinance may be required to execute a counterpart agreement in conformity with the tenor of his licence, and to give such security for the performance of his agreement as the authority granting the licence may require.

Counterpart agreement to be executed by licensee.

27. (1) Subject to such restrictions as the Minister may' prescribe, the authority granting any licence, permit, or pass under this Ordinance may cancel or suspend it—

Power to cancel or suspend licences, &c.

- (d) if any duty or fee payable by the holder thereof be not duly paid ; or

- (b) in the event of any breach by the holder of such licence, permit, or pass, or by his servants, or by anyone acting with his express or implied permission on his behalf of any of the terms or conditions of such licence, permit, or pass; or
- (c) if the holder thereof is convicted of any offence under this Ordinance, or any other law for the time being in force relating to revenue, or of any cognizable and non-bailable offence, or of any offence under section 152 of the Code of Intellectual Property Act, or is punished for any offence referred to in section 129 of the Customs Ordinance; or
- (d) where a licence, permit, or pass has been granted on the application of the holder of an exclusive privilege under this Ordinance on the requisition in writing of such person.

(2) When a licence, permit, or pass held by any person is cancelled under paragraph (a) or paragraph (b) of subsection (1), the authority aforesaid may cancel any other licence, permit, or pass granted to such person under this Ordinance or under any other law for the time being in force relating to excise revenue.

(3) , The holder shall be entitled to no compensation for the cancellation or suspension of his licence, permit, or pass under this section, nor to refund of any fee paid or deposit made in respect thereof.

Further power to cancel licences.

**28.** (1) Whenever the authority stated in section 27 considers that a licence should be cancelled for any cause other than those specified in that section, he shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days, and may cancel the licence either—

- (a) on the expiration of fifteen days\* notice in writing of his intention to do so; or
- (b) forthwith without notice.

(2) If any licence be cancelled under this section, the aforesaid authority may, in addition to remitting such sum aforesaid pay to the licensee such further sum by way of compensation as the Excise Commissioner may direct.

(3) When a licence is cancelled under this section, any fee paid in advance or deposit made by the licensee in respect thereof shall be refunded to him, less the amount, if any, due to Government.

**28A.** (1) Notwithstanding anything in this Ordinance, if, upon representation made or otherwise, the Minister considers it necessary to do so, he may, without assigning any reason therefor, direct the authority granting a licence, to grant a licence, or to renew or cancel a licence, and such authority shall give effect to such direction.

Powers of Minister in respect of licences. [§2, Law 14 of 1977.]

(2) No action for compensation or damages shall lie in respect of the cancellation, on a direction given by the Minister under subsection (1), of any licence by the authority granting such licence.

**29.** Any holder of a licence to sell under this Ordinance may surrender his licence on the expiration of one month's notice in writing given by him to the Government Agent of his intention to surrender the same, and on payment of the fee payable for the licence for the whole period for which it would have been current but for such surrender:

Surrender of licence

Provided that if the Excise Commissioner is satisfied that there is sufficient reason for surrendering a licence, he may remit to the holder thereof the sum so payable on surrender or any portion thereof.

**CHAPTER VII**  
GENERAL PROVISIONS

**30.** (1) Every person who manufactures or sells any excisable article under a licence granted under this Ordinance shall be bound—

Certain licensees required to keep instruments for testing, &c.

- (a) to supply himself with such measures, weights, and instruments as the Minister may prescribe, and to keep the same in good condition; and

- (b) , when such measures, weights, and instruments have been prescribed, on the requisition of any excise officer duly empowered in that behalf, at any time to measure, weigh, or test any excisable article in his possession in such manner as the said excise officer may require.

(2) The Minister may, under this section, prescribe measures, weights, and instruments, in addition to or other than those provided for by the Weights and Measures Ordinance,

**31.** (1) In case of default made by a holder of a licence or by a grantee of an exclusive privilege in the payment of any duty or fee, or in the performance of all or any of the terms or conditions of such licence or grant, the Government Agent may, if he thinks fit, without process of law, after fifteen days' notice in writing to the licensee or grantee of his intention to do so, take the licence or grant under management at the risk of the defaulter, or may declare the licence or grant forfeited, and re-issue or re-sell it at the risk and loss of the defaulter.

(2) When a licence or grant is under management under this section, the Government Agent may recover as excise revenue any moneys due to the defaulter by any lessee or assignee.

**32.** (1) The Minister may make rules for the purpose of carrying out the provisions of this Ordinance or other law for the time being in force relating to excise revenue; and all such rules shall be laid as soon as conveniently may be before Parliament, and upon being confirmed, with or without modification, by a resolution of Parliament, and upon such confirmation being notified in the Gazette, shall have the force of law from the date of such notification, or upon such date as may be therein fixed:

Provided that in any case of urgency the Minister may by notification declare any such rules to be in force from a date named therein, and such rules shall thereupon come into force on such date ; but if within forty

days of the date upon which such rules are laid before Parliament a resolution be passed by Parliament praying that all or any of such rules be modified or annulled, such rules or rule shall thenceforth be modified or annulled accordingly, but without prejudice to anything done thereunder.

(2) In particular, and without prejudice to the generality of the foregoing provision, the Minister may make rules—

- (a) .regulating the delegation of any powers by the Excise, Commissioner or by Government Agents under section 8 (g);
- (b) prescribing the powers and duties of officers of the Excise Department;
- (c) prescribing the procedure in appeals from orders of the Excise Commissioner or the Government Agent to the Minister;
- (d) regulating the import, export, or transport of any excisable article;
- (e) regulating the manufacture, bottling, supply, or storage of any excisable article, including —
  - (i) the erection, inspection, supervision, management, and control of any place for the manufacture, bottling, supply, or storage of such article, and the fittings, implements, and apparatus to be maintained therein,
  - (ii) the tapping of toddy-producing trees and the drawing of toddy from such trees;
- (f) regulating the deposit of any excisable article in a warehouse, and the removal therefrom, of such article;
- (g) regulating the periods and localities for which licences for the wholesale or retail sale of any excisable article may be granted;

Procedure in case of default by licensee or grantee of exclusive privilege.

Power to make rules.

- (h) prescribing the procedure to be followed and the matters to be ascertained before any licence for such sale is granted for any locality;
- (i) prescribing in the case of any excisable article the way in which the duty on such article shall be levied;
- (j) prescribing the scale of fees, or the manner of fixing the fees, payable in respect of any privilege, licence, permit, or pass or of the storing of any excisable article;
- (k) regulating the time, place, and manner of payment of any duty or fee;
- (l) prescribing the restrictions under and the conditions on which any licence, permit, or pass may be granted, including—
  - (i) the prohibition of the admixture with any excisable article of any substance deemed to be noxious or objectionable,
  - (ii) the fixing of the strength, price, or quantity in excess of or below which any excisable article shall not be sold or supplied, and the quantity in excess of which denatured spirit shall not be possessed, and the prescription of a standard of quality for any excisable article,
  - (iii) the prohibition of the employment by the licence holder of any person or class of persons to assist him in his business in any capacity whatsoever,
  - (iv) the prescription of the persons to whom any excisable article may or may not be sold,
  - (v) the prohibition of sale except for cash.
- (vi) the prevention of drunkenness, gambling, or disorderly conduct in or near any licensed premises, and the meeting of or remaining of persons of bad character in such premises,
- (vii) the prescription of the days and hours during which any licensed premises may or may not be kept open, and provision for the closure of such premises on special occasions,
- (viii) the prescription of the nature of the premises in which any excisable article may be sold, and the notices to be exposed at such premises, and
- (ix) the prescription of the accounts to be maintained and the returns to be submitted by licence holders;
- (m)
  - (i) declaring the process by which spirit manufactured in Sri Lanka shall be denatured,
  - (ii) for causing such spirit to be denatured through the agency or under the supervision of Government officers,
  - (iii) for ascertaining whether such spirit has been denatured;
- (n) providing for the destruction or other disposal of any excisable article deemed to be unfit for use;
- (o) regulating the disposal of confiscated articles;
- (p) prescribing the instruments to be used in the testing of liquors, and the tables of corrections according to temperature to be used therewith.



CHAPTER VIII

POWERS AND DUTIES OF OFFICERS, &C.

Power to enter and inspect places of manufacture, bottling, and sale.

33. The Excise Commissioner or a Government Agent or any excise officer not below such rank as the Minister may prescribe, or any police officer duly empowered in that behalf, may enter and inspect at any time by day or by night any place in which any licensed manufacturer carries on the manufacture of or stores any excisable article ; and may enter and inspect at any time during which the same may be open any place in which any excisable article is bottled or kept for sale by any licensed person ; and may examine, test, measure, or weigh any materials, still, utensil, implement, apparatus, or excisable article found in such place of manufacture, bottling or sale.

Powers of excise officers in matters of arrest and inquiry,

34. (1) Within such Specified area as the Minister by notification may direct any excise officer not below such rank as the Minister may prescribe shall, within the limits of the area to which he is appointed, and as regards all offences under this Ordinance, exercise the powers that may be exercised in respect of cognizable offences by an inquirer, or by an officer in charge of a police station, under the provisions of Chapter XI of the Code of Criminal Procedure Act.

(2) An inquiry under this section shall be held at or in the neighbourhood of the place in which the offence is alleged to have been committed.

Cases in which offenders may be arrested, and contraband liquor and articles seized without warrant.

35. (1) Any officer of the Excise, Police, Customs, or Revenue Departments, not below such rank and subject to such restrictions as the Minister may prescribe, and any other person duly empowered, may arrest without warrant any person found committing, in any place other than a dwelling house, an offence punishable under section 46 or section 47; and may seize and detain any excisable or other article which he has reason to believe to be liable to confiscation under this Ordinance or other law for the time being in force relating to , excise revenue ; and may search any person upon whom, and any vessel, vehicle, animal, package, receptacle, or covering in or upon

which, he may have reasonable cause to suspect any such article to be and, for the purposes of such search, may stop any such person, vessel, vehicle or animal.

(2) The driver of any vehicle or vessel who fails or refuses to stop or to halt such vehicle or vessel when directed to do so either verbally or by signal by an excise officer not below the rank of Inspector wearing his uniform and acting in execution of his duty, shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding fifty rupees or in default of payment of such fine to simple imprisonment for a term which may extend to six weeks.

(3) In this section "vehicle" includes any carriage coach, cart, motor car, motor cycle, omnibus, lorry, bicycle, or other mechanically propelled vehicle and the " driver " of a vehicle includes the rider of a motor cycle or of a bicycle; and " signal \* includes one or more blasts of a whistle.

36. If a Government Agent or a Magistrate, upon information obtained and after such inquiry as he thinks necessary, has reason to believe that an offence under section 46 or section 47 has been or is likely to be committed, he may issue a warrant for the search for any excisable article, materials, still, utensil, implement, or apparatus in respect of which the alleged offence has been or is likely to be committed, or any paper or document relating thereto; and for the taking into custody and carrying before such an officer as is referred to in section 34 of this Ordinance any person who appears to have been privy to the commission of the offence.

Government Agent or Magistrate may issue a search warrant.

37. Whenever a Government Agent or any excise officer not below such rank as the Minister may prescribe has reason to believe that an offence under section 46 or section 47 has been, is being, or is likely to be, committed, and that a search warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, after recording the grounds of his belief, at any time by day or night, enter and search any place and may seize anything found

Power of excise officers to search without a warrant.

therein which he has reason to believe to be liable to confiscation under this Ordinance ; and may detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of such offence as aforesaid.

Power to cut spadicces of trees tapped without licence. [§2, Law 27 of 1974.]

38. (1) Where an authorized officer at any time finds fermented toddy in any pot or other receptacle hanging under a spadix from any tree, he may, if he is satisfied that no licence is in force authorizing the manufacture of fermented toddy from that tree, cut such spadix or cause such spadix to be cut in his presence and under his supervision:

Provided that where at that time a tapper is found upon such tree, such spadix shall not be cut and such tapper and the owner of such tree shall be dealt with under- sections 35 and 46.

(2) Where a spadix of a tree is cut in accordance with the provisions of subsection (1), such authorized officer shall make a report to the Government Agent and the Superintendent of Excise of the District, giving details of the location of the tree, and any other particulars as may be required to be furnished by such Government Agent or the Excise Commissioner.

(3) In this section—

" authorized officer " means—

- (a) an Excise Inspector or any other officer of the Excise Department whose rank is higher than that of an Excise Inspector ; or
- (b) any public officer authorized by the Government Agent of the District.

Release of arrested persons by excise officers.

39. Every excise officer may release any person arrested under this Ordinance on bail or on such person executing a bond with or without sureties.

Arrests, searches, Ac., how to be made.

40. The provisions of the Code of Criminal Procedure Act, relating to arrests, searches, search warrants, the release of

persons arrested on bail or on the execution of bonds, the production of persons arrested, and the investigation of offences shall be held to be applicable to all action taken in these respects under this Ordinance.

41. All offences under this Ordinance shall be bailable within the meaning of the Code of Criminal Procedure Act, and the provisions of that Act in respect of bail shall be applicable thereto.

Offences to be bailable.

42. Every officer of the Police, Customs, and Revenue Departments, and every peace officer, shall be bound to give immediate information to an excise officer of all breaches of any of the provisions of this Ordinance which may come to his knowledge, and to aid any excise officer in carrying out the provisions of this Ordinance upon request made by such officer.

Officers of certain departments bound to report offences and to assist.

43. (a) All proprietors, tenants, under-tenants, and cultivators who own or hold land on which;

Landholders and others to give information.

(b) all persons entitled, under a licence or a permit or any other document whatsoever, to the produce of, or to tap, palm trees on any land on which ; and

(c) all grama seva niladharis in whose division—

there shall be any manufacture of any excisable article not licensed under this Ordinance, shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to an officer of the Excise, Police, or Revenue Departments, immediately the same shall have come to their knowledge.

44. All officers in charge of police stations shall take charge of and keep in safe custody, pending the orders of a Magistrate or of the Government Agent, all articles seized under this Ordinance which may be delivered to them; and shall allow any excise officer who may accompany such articles to the police station, or may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples of and from them. All

Police to take charge of articles seized.

samples so taken shall also be sealed with the seal of the officer in charge of the police station.

Closure of licensed premises.

**45.** (1) The Government Agent may, by notice in writing addressed to any person to whom a licence has been issued authorizing the sale of any excisable article) at any premises, order such person to close such premises and to refrain from selling or supplying any excisable article from such premises at such time or for such period as may be specified in the notice—

- (a) if any detachment or any larger unit of soldiers or sailors is passing through or is encamped within the area supplied by such premises;
- (b) if any riot, unlawful assembly, civil disturbance or breach of the peace exists, occurs or is apprehended within the area supplied by such premises;
- (c) if a poll for any election, or any local option poll, is to be held within the area supplied by such premises; or
- (d) if such premises are situated within or in the vicinity of any area for the time being declared to be a diseased locality under the provisions of any written law:

Provided that in any case falling under paragraph (b), the powers conferred on a Government Agent by this subsection may be exercised by a Magistrate, or by a divisional Assistant Government Agent, or by an officer of the Police Department of a rank not below that of Sub-Inspector.

(2) Every person, to whom a licence has been issued authorizing the sale of any excisable article on any premises, shall close such premises during such time as any riot or civil disturbance occurs within the area supplied by such premises.

(3) Where any person closes any premises in accordance with the provisions of this action, the Excise Commissioner may, in his discretion, direct—

- (a) that such part as the Commissioner may think fit of any amount paid in advance to the Government by such person as fee, tax, duty or rent in respect of such premises, shall be refunded; or
- (b) that payment of such part as the Commissioner may think fit of any amount due to the Government from such person as fee, tax, duty or rent in respect of such premises, shall be waived.

**CHAPTER IX**

**PENALTIES**

**46.** Whoever, in contravention of this Ordinance or of any rule or order made under this Ordinance, or of any licence, permit, or pass obtained under this Ordinance—

Penalties for illegal import,

- (a) imports, exports, transports, or possesses any excisable article; or
- (b) manufactures any excisable article; or
- (c) taps any toddy-producing tree; or
- (d) draws toddy from any tree; or
- (e) establishes or works any distillery, brewery, or warehouse; or
- (f) uses, keeps, or has in his possession any materials, still, utensil, implement, or apparatus whatsoever for the purpose of manufacturing any excisable article other than toddy; or
- (g) sells or keeps or exposes for sale any excisable article; or
- (h) bottles any liquor for purposes of sale,

shall be guilty of an offence, and be liable on conviction to imprisonment of either description for a term which may extend to six months, or to fine which may extend to one thousand rupees, or to both, and where the act hereby penalized is continued after

conviction, he shall be liable to the aforesaid punishment for each day on which the offence is so continued.

For illegal possession or transport. [§ 2. 8 of 1965.]

47. (1) Whoever without lawful authority has in his possession or transports any quantity of any excisable article which has been unlawfully imported or manufactured, or on which the prescribed duty has not been paid, shall be guilty of an offence, and be liable on conviction to imprisonment of either description for a term which may extend to six months or to fine which may extend to one thousand rupees, or to both.

[§3,36 of 1957.] (2) Where in any prosecution of a person for the offence of possessing without lawful authority a quantity of unlawfully manufactured liquor or for the offence of transporting without lawful authority a quantity of unlawfully manufactured liquor a certificate of the Government Analyst is produced in court to the effect that he is satisfied that the liquor in respect of which the offence is alleged to have been committed is not liquor of a description that could have been manufactured under the authority of a licence issued under this Ordinance and is not liquor that could have been manufactured in a Government distillery or in a Government warehouse, the court shall presume, until the contrary is proved, that the liquor in respect of which the offence is alleged to have been committed is unlawfully manufactured.

[§ 4,49 of 1961.] (3) In subsection (2), " Government Analyst" means the person for the time being holding the office of Government Analyst and includes any person for the time being holding the office of Deputy Government Analyst or Assistant Government Analyst.

For misconduct by licensee, &c.

48. Whoever, being the holder of a licence, permit, or pass granted under this Ordinance, or being in the employ of such holder and acting on his behalf—

- (a) fails to produce such licence, permit, or pass on the demand of any excise officer, or of any other officer duly empowered to make such demand; or

- (b) wilfully contravenes any rule made under section 32;
- (c) wilfully does or omits to do anything in breach of any of the conditions of the licence, permit, or pass not otherwise provided for in this Ordinance,

shall be guilty of an offence, and be liable on conviction to imprisonment of either description which may extend to three months, or to fine which may extend to two hundred rupees, or to both ; and, in the case of an offence continued after conviction, to such punishment as aforesaid for each day on which the offence is so continued.

49. (1) Any excise officer who without lawful excuse shall cease or refuse to perform, or shall withdraw himself from, the duties of his office, unless expressly allowed to do so in writing by the Excise' Commissioner, or unless he shall have given to his superior officer two months' notice in writing of his intention to do so, or who shall be guilty of cowardice, shall be guilty of an offence, and be liable on conviction to imprisonment of either description which may extend to three months, or to fine which may extend to six months' pay, or to both.

For excise officer refusing to do duty or being guilty of cowardice.

- (2) Any excise officer who shall—
  - (a) wilfully fail in his duty to report any offence against this Ordinance or any rule or order made thereunder; or
  - (b) connive at the commission of any offence against this Ordinance,

Offences by excise officers.

shall be liable on conviction to imprisonment of either description which may extend to six months, or to fine which may extend to one year's pay, or to both.

50. Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Ordinance, or of any rule or order made under this Ordinance, and not otherwise provided for in this Ordinance, shall on conviction be liable to fine which may extend to one hundred rupees, or, in default of payment of

For offences not otherwise provided for.

the fine, to imprisonment which may extend to six months, and, in the case of an offence continued after conviction, to such punishment as aforesaid for each day on which the offence is so continued.

(c) any such materials as are ordinarily used in the manufacture of any excisable article, ^

Enhanced punishment after previous conviction,

51. If any person, after having been previously convicted of an offence punishable under section 46 or section 47, subsequently commits and is convicted of an offence punishable under either of those sections, he shall be liable to twice the punishment which might be imposed on a first conviction under this Ordinance :

for the possession of which, or for his conduct in connection with which, he is unable to account satisfactorily; and the holder of a licence, permit, or pass under this Ordinance shall be punishable, as well as the actual offender, for any offence under section 46 or section 47 or section 48 committed by any person in his employ and acting on his behalf as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence :

Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under Chapter XVII of the Code of Criminal Procedure Act, from being so tried.

Provided that no person other than the actual offender shall be punished with imprisonment, except in default of payment of fine.

Prosecution restricted,

52. (1) No Magistrate shall take cognizance of an offence punishable—

- (a) under sections 46, 47, or 50, except on his own knowledge or suspicion, or on the complaint or report of an excise officer; or
- (6) under section 48 or section 49, except on the complaint or report of the Excise Commissioner, Government Agent, or an excise officer authorized by either of them on that behalf.

(2) Where a person who is bound to give notice under section 43 of this Ordinance is prosecuted for the offence of intentionally omitting to give such notice in contravention of that section, it shall be presumed, until the contrary is proved, that such person has intentionally omitted to give such notice if an excise officer of a rank not below that of Superintendent certifies in writing under his hand, after such investigation as he may deem necessary, that he is satisfied that such person has omitted to give such notice.

(2) Except with the special sanction of the Attorney-General, no Magistrate shall take cognizance of any offence punishable under this Ordinance unless the prosecution is instituted within a year after the commission of the offence.

54. (1) Whenever an offence has been committed under this Ordinance, the excisable article, materials, still, utensil, implement, or apparatus in respect of or by means of which such offence has been committed shall be liable to confiscation.

What things liable to, confiscation.

Presumption as to commission of offence in certain cases

53. (1) In prosecutions under section 46 shall be presumed, until the contrary is proved, that the accused person has committed an offence under that section in respect of—

- (a) any excisable article; or
- (b) any still, utensil, implement, or apparatus whatsoever for the manufacture of any excisable article other than toddy; or

(2) Any excisable article lawfully imported, transported, manufactured, had in possession, or sold along with, or in addition to, any excisable article liable to confiscation under this section, and the receptacles, packages, and coverings in which any such excisable article, materials, still, utensil, implement, or apparatus as aforesaid is found, and the other contents, if any, of the receptacles or packages in which the same is found, and the animals, carts,

vessels, or other conveyance used in carrying the same, shall likewise be liable to confiscation.

Confiscation how ordered.

55. (1) When in any case tried by him the Magistrate decides that anything is liable to confiscation under the foregoing section, he may order confiscation, or may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as he thinks fit.

(2) When an offence under this Ordinance has been committed, but the offender is not known or cannot be found, or when anything liable to confiscation under this Ordinance and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Government Agent, who may order confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizing the thing intended to be confiscated, or without hearing the person, if any, claiming any right thereto, and evidence, if any, which he produces in support of his claim ;

Provided further, that if the thing in question is liable to speedy and natural decay, or if the Government Agent is of opinion that the sale would be for the benefit of its owner, the Government Agent may at any time direct it to be sold ; and the provisions of this subsection shall, as nearly as may be practicable, apply to the net proceeds of such sale.

Power to compound offences.

56. The Government Agent or any excise officer specially empowered by the Minister in that behalf may accept from any person whose licence, permit, or pass is liable to be cancelled or suspended under section 27, or who is reasonably suspected of having committed an offence under section 48 or section 50, in lieu of such cancellation or suspension or by way of compounding the offence which may have been committed, as the case may be, either such sum of money, not exceeding one thousand rupees, as may be specified in a notice sent by post or otherwise delivered to such person by the Government Agent or

[§5,491961.]

such excise officer if the sum so specified is tendered by such person before the expiry of fourteen days after the date of such notice, or the sum so specified and such additional amount, not exceeding ten per centum of the sum so specified, as may be determined by the Government Agent or such excise officer if the sum so specified and the additional amount so determined are tendered by such person before the expiry of twenty-eight days after the date of such notice; and in all cases whatsoever in which any property has been seized as liable to confiscation under this Ordinance may release the same on payment of the value thereof as estimated by such officer. On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken against such person or property.

57. All offences under this Ordinance shall be summarily triable by Magistrates, who shall have power to award the punishments herein prescribed, anything in the Code of Criminal Procedure Act, or any other enactment to the contrary notwithstanding.

Offences to be summarily triable by Magistrates.

CHAPTER X

MISCELLANEOUS

58. Nothing in the foregoing provisions of this Ordinance applies to the import, manufacture, possession, sale, or supply of any bona fide medicated article for medicinal purposes by medical practitioners, chemists, druggists, pharmacists, apothecaries or keepers of dispensaries; but the Minister may by notification prohibit throughout Sri Lanka or within any local area the import, manufacture, possession, supply, or sale of any such article either absolutely or except under such conditions as he may prescribe, and the provisions of this Ordinance shall thereafter apply to any article so prohibited.

Ordinance does not apply to bona fide medicated articles.

59. No action shall lie against the Government of Sri Lanka or against any excise officer for damages in any civil court for any act bona fide done or ordered to be done in pursuance of this Ordinance, or of

any law for the time being in force relating to excise revenue ; and all prosecutions of any excise officer, and all actions which may be lawfully brought against the Government of Sri Lanka or against any excise officer, in respect of anything done in pursuance of this Ordinance, shall be instituted within six months from the date of the act complained of, and not afterwards.

orders of Government or by the Government Printer or at the Department of Government Printing; or

(b) in any document purporting to be an extract from any issue of the Gazette,

it shall be presumed, until the contrary is proved, that an excise notification in identical terms was published in the Gazette.

Excise notifications to be judicially noticed.

**60.** (1) Every excise notification shall be published in the Gazette.

(2) A court shall take judicial notice of every excise notification.

(3) Where an excise notification is printed—

(a) in any Excise Manual or other book or document purporting to be printed by authority or on the

(4) In this section—

"excise notification " means a notification made or issued under this Ordinance or for the purposes thereof;

" court" has the same meaning as in the Evidence Ordinance.

CHAPTER 381

EDUCATION

*Ordinances* AN ORDINANCE TO MAKE BETTER PROVISION FOR EDUCATION AND TO REVISE AND CONSOLIDATE THE LAW RELATING THERETO.  
 Nos. 31 of 1939,  
 61 of 1939,  
 12 of 1945,  
 3 of 1946,  
 26 of 1947,  
*Acts*  
 Nos. 5 of 1951,  
 43 of 1953,  
 37 of 1958,  
*Law*  
 No. 35 of 1973.

[1st September. 1939.]

Short title. 1. This Ordinance may be cited as the Education Ordinance.

(2) Every Deputy Director-General of Education, every Director of any specified aspects of education, and every Regional Director of Education for the time being holding office as such shall be deemed to have been duly appointed under this Ordinance.

PART I

CENTRAL AUTHORITY

Department of Education. 2. (1) For the purposes of this Ordinance, there shall be a Department of Education consisting of the Director-General of Education and such other officers and servants as may be appointed from time to time.

(3) The Director-General of Education may delegate any function, power or duty vested in or assigned to or imposed on him by this Ordinance, the Assisted Schools and Training Colleges (Special Provisions) Act, No. 5 of 1960,\* the Assisted Schools and Training Colleges (Supplementary Provisions) Act, No. 8 of 1961,\* or by any other written law to any Deputy Director-General of Education or to any Director of any specified aspects of education or to any Regional Director of Education.

(2) The Department of Education existing on the day immediately preceding the date on which this Ordinance comes into operation shall be deemed to be established under this Ordinance and shall continue accordingly; and every officer or servant holding office in that department on the aforesaid day shall be deemed to be appointed under this Ordinance and shall continue in office accordingly.

3. (1) Subject to the general direction and control of the Minister, the Director-General and other officers of the department shall execute, and shall have power to enforce, the provisions of this Ordinance and of the regulations made thereunder.

Powers and duties of officers of the department.

Creation of certain new posts in the Department of Education. [§ 4, Law 35 of 1973.] 2A. (1) There may be appointed persons to be or to act as—

- (a) Deputy Directors-General of Education,
- (b) Directors of specified aspects of education, and
- (c) Regional Directors of Education.

(2) It shall be lawful for the Minister, on appeal or otherwise, to rescind, alter or revise any order or determination which is made by the Director-General in the exercise of his discretion under any of the provisions of this Ordinance or of any regulations made thereunder. The decision

\* See List of Enactments omitted from the Revised Edition.



of the Minister in every such case shall be final, and shall be binding on the Director-General and all other persons affected thereby.

Power to make reductions in grants.

4. Where, in any year, the aggregate of the grants for any specific purpose under the provisions of this Ordinance or the regulations made thereunder exceeds the sum provided for that purpose by Parliament, the Director-General shall make a reduction in all or any of such grants in accordance with the allocations made by Parliament in respect of such grants, or, if such allocations are not made by Parliament, it shall be lawful for the Director-General, with the prior approval of the Minister, to make a proportionate reduction in all such grants so as to make the aggregate of the sums paid by way of grant equal to the sum provided by Parliament.

PART II

ADVISORY BODIES

CENTRAL ADVISORY COUNCIL

Establishment of Central Advisory Council.

5. (1) There shall be established a Central Advisory Council (hereinafter referred to as "the advisory council"), consisting of such persons not being less than ten in number as may be appointed by the Minister.

(2) The Minister shall nominate one of the members of the advisory council to be the chairman thereof.

(3) An officer of the Ministry of Education designated in that behalf by the Minister shall act as secretary to the council.

Function of the council.

6. The function of the advisory council shall be to advise the Minister on all such matters relating to education as may be referred by the Minister to the council for such advice or in respect of which the council may think fit to tender advice.

Procedure, &c.

7. The Minister may by Order published in the Gazette provide for the summoning and holding of periodical and other meetings of the advisory council and for the conduct of business and the procedure to be followed at meetings of the council.

8. (1) Any member of the advisory council may at any time be removed from office by the Minister, Tenure of office, resignation and vacation of seat.

(2) Any member of the advisory council may resign his seat on the advisory council by letter addressed to the Minister.

(3) Every member of the advisory council, who is found on the thirty-first day of December in any year to have failed to attend at least one-half of the number of meetings held by the advisory council in the period of twelve months immediately preceding that date or in that part of such period during which he held the office of member, shall, unless he was absent from any such meeting on the ground of ill health or with the leave of the advisory council first obtained, be deemed to have vacated his seat on the advisory council.

(4) Every member of the advisory council shall, unless he earlier resigns or vacates his seat or is removed from office by the Minister, hold office for a term of three years from the date of his appointment or for such other term as may have been expressly specified by the Minister at the time of the appointment.

(5) The Minister may from time to time appoint any suitable person—

(a) to act as a member of the advisory council in place of any member who is incapacitated by ill health from attending meetings of the advisory council or who is granted leave of absence by the advisory council; or

(b) to be a member of the advisory council in place of any member who resigns or vacates his seat or is removed from office by the Minister.

LOCAL ADVISORY COMMITTEES

9. (1) For the purpose of advising the Director-General upon matters connected with education in the different parts of Sri Lanka and the educational needs thereof, Local advisory committees.

local committees (hereinafter referred to as "local advisory committees") shall be constituted—

- (a) for the area within the administrative limits of each of the Municipal Councils;
- (b) for each area within the administrative limits of an Urban Council or Town Council which is specified by the Minister by Order published in the Gazette as an area for which a local advisory committee may be constituted under this section; and
- (c) for each of such other areas, not including the areas or any part of the areas referred to in paragraphs (a) and (b), as may be specified or defined by the Minister by Order published in the Gazette as areas for which local advisory committees may be constituted under this section.

(2) Every area, which is to be defined by Order under paragraph (c) of subsection (1), shall be so determined as to ensure that any town for which an Urban Council or a Town Council has been established, or any village area comprised within the administrative limits of a Village Council, is either entirely excluded from the proposed area or included in its entirety therein.

Composition, term of office, &c., of local advisory committees.

**10.** (1) Every local advisory committee shall consist of twelve members.

(2) The officer of the department who is authorized by the Director-General to enforce or execute in any area the provisions of this Ordinance and the regulations made thereunder (hereinafter referred to as "the Chief Education Officer") shall be a member of the local advisory committee for that area.

(3) In the case of any area within the administrative limits of a Municipal Council or an Urban Council or a Town Council, two of the members of the local advisory committee for that area shall be nominated by the Minister on the recommendation of such Council; and in the case of

any area which is specified or defined by Order under section 9 (1) (c) and which includes the area within the administrative limits of any Urban Council or Town Council, two of the members of the local advisory committee for the area so specified or defined shall be nominated by the Minister on the recommendation of that Urban Council or Town Council:

Provided, however, that the Minister may, by Order published in the Gazette, increase or reduce the number of members to be nominated under this subsection either generally in respect of all such areas or specially in respect of any specified area; and in any such case the number of members nominated under this subsection shall be the number specified in the Order issued in respect of that case.

(4) Such of the members of each local advisory committee as are not referred to in subsection (2) or subsection (3) shall be nominated by the Minister.

(5) Any member of a local advisory committee, other than the Chief Education Officer, may at any time be removed from office by the Minister.

(6) Any member of a local advisory committee, other than the Chief Education Officer, may, resign his seat on the committee by letter addressed to the Director-General.

(7) Any member of a local advisory committee, other than the Chief Education Officer, who has failed to attend three consecutive meetings of the committee shall, unless he was absent from any such meeting on the ground of ill health or with the leave of the committee first obtained, be deemed to have vacated his seat on the committee.

(8) Every member of a local advisory committee, other than the Chief Education Officer, shall, unless he earlier resigns or vacates his seat or is removed from office by the Minister, hold office for a term of three years from the date of his nomination or for such other term as may have been expressly specified by the Minister at the time of the nomination.

(9) Subject to the provisions of subsection (3), the Minister may from time to time appoint any suitable person—

(a) to act as a member of a local advisory committee in place of any member (other than the Chief Education Officer) who is incapacitated by ill health from attending meetings of the committee or who is granted leave of absence by the committee ; or

(b) to be a member of the committee in place of any member who resigns or vacates his seat or is removed from office by the Minister.

Chairmen of local advisory committees.

**11.** (1) At the first meeting held after the constitution of each local advisory committee, the committee shall elect a chairman from among its members.

(2) Whenever the office of the chairman becomes vacant, the committee shall at the next succeeding meeting fill the vacancy by a like election from among its members.

Functions of local advisory committees.

**12.** (1) Save as otherwise expressly provided, the local advisory committee constituted for any area under this Ordinance shall not be deemed for any purpose to be vested with any executive or administrative duties or powers or with any functions other than that of giving advice or making recommendations on such matters, relating to education in that area or the educational needs thereof, as may be referred for consideration to that local advisory committee by the Minister or by the Director-General.

(2) All matters referred for consideration to a local advisory committee by the Minister or the Director-General shall be dealt with and disposed of by the local advisory committee at meetings summoned and held in the prescribed manner at the prescribed times or intervals.

THE SCHOOL EXAMINATIONS  
ADVISORY COUNCIL

Establishment of School Examinations Advisory Council.

**13.** (1) There shall be established a School Examinations Advisory Council consisting of the Commissioner of Examinations and of the prescribed number of members appointed by the Minister.

(2) The Commissioner of Examinations shall be the chairman of the School Examinations Advisory Council and shall preside at every meeting of the council at which he is present but shall not be entitled to vote on any matter brought before the council. In the event of the Commissioner of Examinations being absent from any meeting of the council, the members who are present may elect one of their own number to preside at that meeting.

**14.** (1) The function of the School Examinations Advisory Council shall be to advise the Commissioner of Examinations on all such matters relating to the control, organization and conduct of school examinations as may be referred by the Commissioner of Examinations to the council for such advice or in respect of which the council may think fit to tender advice.

Functions of School Examinations Advisory Council.

(2) The School Examinations Advisory Council shall not be deemed for any purpose to be vested with any administrative or executive powers or functions.

**15.** The provisions of sections 7 and 8 as to meetings, appointment of members, tenure of office, and vacation of office shall apply to the School Examinations Advisory Council and the members thereof in like manner as if every reference in those provisions to the advisory council or to members of the advisory council were a reference to the School Examinations Advisory Council or to members thereof.

Meetings, appointment of members, and tenure and vacation of office by members of School Examinations Advisory Council.

THE EDUCATIONAL RESEARCH COUNCIL

**16.** There shall be established an Educational Research Council consisting of the Director-General and of the prescribed number of members appointed by the Minister.

Establishment of Educational Research Council.

**17.** The Educational Research Council shall be an executive body and shall, subject to such directions as may be issued by the Minister, conduct and promote research in educational theory and practice and investigations and experiments with a view to the improvement of the methods of teaching.

Functions of Educational Research Council.

Meetings, appointment of members, and tenure and vacation of office by members, of Educational Research Council.

**18.** The provisions of sections 7 and 8 as to meetings, appointment of members, tenure of office, and vacation of office shall apply to the Educational Research Council and the members thereof in like manner as if every reference in those provisions to the advisory council or to members of the advisory council were a reference to the Educational Research Council or to members thereof.

**PART III**

**CONSTITUTION, POWERS AND DUTIES OF URBAN AND RURAL EDUCATION AUTHORITIES**

Application of Part III to urban areas and village areas.

**19.** (1) The Minister may, by Order published in the Gazette, apply the provisions of this Part to—

- (a) the area within the administrative limits of a Municipal Council or Urban Council or Town Council, if he is satisfied, upon the recommendation of the Minister in charge of the subject of Local Government, that the cost of supplying the educational needs or any specified part of the educational needs of that area should be borne by the Municipal Council or Urban Council or Town Council, as the case may be;
- (b) any village area within the meaning of the Village Councils Ordinance, if the Village Council of that area declares by resolution that it is prepared to bear the cost of supplying the educational needs or any specified part of the educational needs of the area, and the Minister is satisfied, upon the recommendation of the Minister in charge of the subject of Local Government, that such cost can be borne by the Village Council.

(2) Where the cost of supplying a part only of the educational needs of any area is to be borne by the Municipal Council, Urban Council, Town Council or Village Council constituted for that area, such part shall be defined in the Order issued under subsection (1) in respect of that area and

may thereafter be redefined from time to time by further Orders issued in that behalf.

**20.** Upon the publication of an Order under section 19 in respect of any area— Consequences of order under section 19.

- (a) the local advisory committee constituted for that area or for any larger area of which that area forms part, shall cease to function, or as the case may be, cease to function in respect of that area;
- (b) where that area is the area within the administrative limits of a Municipal Council or Urban Council or Town Council, the Municipal Council or Urban Council or Town Council shall be an urban education authority under this Ordinance for the purposes of that area;
- (c) where that area is a village area, the Village Council of that area shall be a rural education authority under this Ordinance for the purposes of that area; and
- (d) it shall be the duty of the urban education authority or the rural education authority of that area, as the case may be, to supply the educational needs of that area in accordance with the next following provisions of this Part.

**21.** Where by virtue of the application of the provisions of this Part to any area, the Municipal Council, Urban Council, Town Council or Village Council constituted for that area becomes, as the case may be, an urban education authority or a rural education authority, any other written law for the time being in force relating to the powers of such Council shall be deemed to be modified as follows :—

Power to levy additional rate and to expend moneys for the purposes of this Ordinance.

- (1) any powers conferred by such written law to impose and levy a rate on property shall be deemed to include the power to impose and levy, in the manner provided by that law, an additional rate on property for the purpose of meeting the cost of supplying the educational needs or

any part of the educational needs of the area:

Provided, however, that the additional rate hereby authorized shall not be leviable by a Village Council on any property within its administrative limits, which is, or forms part of an estate within the meaning of Part VI;

- (2) the purposes for which the funds at the disposal of the Council may be expended under such written law shall be deemed to include the payment of the cost of supplying the educational needs or any part of the educational needs of the area.

Preparation of local education schemes.

22. (1) For the purpose of discharging the duty referred to section 20, every Municipal Council or Urban Council or Town Council which is an urban education authority and every Village Council which is a rural education authority under this Ordinance shall each year—

- (a) at the time of the preparation of its annual budget or as soon as may be thereafter, prepare for the approval of the Minister a local education scheme in accordance with the provisions of this Part and not inconsistent with any of the other provisions of this Ordinance or of any regulations made thereunder; and
- (b) provide from time to time out of the funds at its disposal such sum or sums as may, together with any sum contributed by the Director-General, form a local education fund sufficient to defray the cost of carrying out the local education scheme prepared for that year and approved by the Minister.

(2) No local education scheme shall be valid, and no steps shall be taken to carry out any local education scheme, until it has been approved by the Minister and notification of such approval has been published in the Gazette ;

Provided that no such scheme shall be confirmed by the Minister, which is prepared in pursuance of any policy aimed against assisted denominational schools as such.

23. Every local education scheme shall provide—

Local education scheme to provide for control of local education fund.

(a) for the control and disposal of the local education fund either by the urban or rural education authority of the area or by the Director-General or by such authority and the Director-General jointly, in accordance with the provisions of this Ordinance and the regulations made thereunder.

(b) for the appointment, by such authority or by the Director-General, of such officers as may be necessary for the due execution of the local education scheme, and for the payment of their salaries, wages, allowances, pensions or gratuities, if any, and the establishment of any provident fund that may be necessary in accordance with such regulations as may be made in that behalf.

24. (1) Every local education scheme shall provide for the delegation, by the urban or rural education authority, to a committee to be known as the local education committee whether with or without any conditions or limitations as that authority thinks fit, of all the powers, duties or functions conferred or imposed on or vested in such authority by the provisions of this Part and by the local education scheme, save only the power of voting or providing money or levying a rate or borrowing money or appointing officers or keeping and auditing accounts.

Delegation of power to local education committee.

(2) The local education scheme for any area may provide for the appointment of sub-committees, to be known as local education sub-committees, for defined portions of the area, and for the discharge of any of the functions of the local education committee, subject to the general direction and control of that committee, by each such sub-committee within that portion of the area for which it is appointed.

25. (1) The local education committee of each area shall consist of the prescribed number of members, each of whom, unless he earlier resigns or vacates his seat or is

Composition of local education committee.

removed from office in such manner or in such circumstances as may be specified in the local education scheme, shall hold office for the prescribed period.

(2) The local education committee of any area shall consist of the Members of Parliament for that area and such number of members of the urban or rural education authority of that area nominated by such authority as may be prescribed.

(3) Every local education committee shall elect a chairman, who shall preside at its meetings, and a vice-chairman, and subject to such regulations as may be made in that behalf, shall exercise, perform and discharge, within the area for which it is appointed, such powers, duties and functions as may be delegated to it by the urban or rural education authority of that area.

Local education sub-committees.

**26.** (1) Where the local education scheme for any area provides for the appointment of local education sub-committees, that area shall be divided into such number of portions as may be specified in that scheme, and for each such portion there shall be appointed a local education sub-committee.

(2) Every local education sub-committee of any area shall be appointed in such manner as may be provided for in the local education scheme of that area, and shall consist of the number of members specified in the scheme; and each such member, unless he earlier resigns or vacates his seat or is removed from office in such manner and in such circumstances as may be specified in the scheme, shall hold office for the prescribed period:

Provided, however, that every elected member who, in the Municipal Council, Urban Council, Town Council or Village Council constituting, as the case may be, the urban or rural education authority for that area, represents any ward or electoral division falling wholly or partly within any such divided portion of the area, shall be included in the local education sub-committee appointed for such divided portion of the area.

(3) Every local education sub-committee shall elect a chairman, who shall preside at its meetings, and a vice-chairman, and subject to such regulations as may be made in that behalf, shall exercise, perform and discharge, within that divided portion of the area for which it is appointed, and under the general direction and control of the local education committee, such powers, duties and functions as may be delegated to it by the local education scheme prepared for the area.

**27.** A local education scheme may, among other matters provide—

Provision of educational facilities in exceptional cases.

(a) for all such measures and all such expenditure as may be necessary for securing to deserving children adequate educational facilities and industrial training;

(b) for the medical inspection or treatment of children attending school and for their health and well-being, and for the supply of free meals and school books to the children of poor parents attending school;

(c) for the education of blind, deaf, defective and epileptic children.

**28.** (1) It shall be lawful for any Municipal Council, Urban Council, Town Council, or Village Council which is, as the case may be, an urban education authority or rural education authority under this Ordinance to borrow such sum or sums of money as may be necessary for carrying out any work of a permanent character undertaken under the provisions of this Part and for the acquisition of any land or building required for the purposes of, or in connexion with, such work, on such terms or conditions as may be approved by the Minister.

Borrowing powers of urban or rural education authorities.

(2) The power to borrow moneys conferred by subsection (1) shall be subject always to any limitation imposed for the time being by any other written law relating to the constitution of Municipal Councils, Urban Councils, Town Councils or Village Councils, as the case may be, upon the powers of any such Council to borrow moneys for the purposes of such other law.

Acquisition of land or building.

**29.** Any private land or building which may be required by an urban or rural education authority for the purposes of this Part may be acquired by the State for such purposes under the provisions of the Land Acquisition Act, or of any other enactment for the time being in force providing for the acquisition of private land or buildings for public purposes. When the urban or rural education authority has paid the compensation awarded, the President may transfer such land to the urban or rural education authority by a writing under the hand of the prescribed officer to the effect that the same has been transferred to the urban or rural education authority and any such land or building when no longer required for the purposes of this Ordinance may be dealt with by the urban or rural education authority in like manner as any other land or building the title to which is vested in that authority.

Accounts and Audit.

**30.** (1) Where the urban or rural education authority has control of the whole or part of the local education fund referred to in section 22, separate accounts shall be kept by the urban or rural education authority of the receipts into and expenditure from the fund or such part of the fund in respect of the functions discharged by such urban or rural education authority under this Part; and those accounts shall be made up in like manner and subject to the same provisions as in the case of a Municipality or Urban Council, Town Council or Village Council, as the case may be, and shall be audited by the Auditor-General or an officer authorized by him (hereinafter referred to as the auditor).

(2) Any member or officer of an urban or rural education authority, local education committee or local education sub-committee or any officer concerned or employed in carrying the provisions of this Ordinance into execution who being liable to account refuses to allow any such auditor, when so authorized or required to make the inspection, or obstructs him in his inspection or conceals any such account or book for the purpose of preventing inspection thereof, 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.

Powers of auditor.

**31.** (1) Every auditor of a local education fund created under this Ordinance, acting in pursuance of the powers conferred upon him by this or any other Ordinance, shall disallow every item of expenditure which is contrary to law, and surcharge the same on the person making or authorizing the making of the illegal payment, and shall charge against any person the amount of any deficiency or loss incurred by the negligence or misconduct of that person and any amount which ought to have been, but is not, brought into account by that person, and shall in each case certify the amount due from such person and communicate his decision in writing to such person through the Mayor or Chairman of the urban or rural education authority, provided that no expenses paid by the urban or rural education authority shall be disallowed by any such auditor if such expenses have been sanctioned by the Minister.

(2) Before making any disallowance or surcharge against any person, the auditor shall afford an opportunity to such person to be heard or to make any representation with regard to the matter which he may think fit, and shall in the event of his making such disallowance or surcharge furnish such person in writing, on application being made to him for that purpose, with the reasons for his decision in respect of such disallowance or surcharge.

(3) Any person aggrieved by any such disallowance or surcharge may, within fourteen days after the date of the decision of the auditor being communicated to him, appeal therefrom to the Minister in charge of the subject of Finance:

Provided that no such appeal shall be entertained in any case in which the appellant has failed or neglected to make any representation with regard to the matter of such disallowance or surcharge after an opportunity to do so has been afforded to him by the auditor in accordance with the provisions of subsection (2).

(4) Any such appeal shall be decided by the Minister in charge of the subject of Finance according to the merits of the case and the Minister in charge of the subject of Finance may, by order, direct the recovery

from the appellant of the whole or any portion of the amount disallowed or surcharged, if he thinks fit to do so; and if he finds that any disallowance or surcharge has been lawfully made, but that the subject-matter thereof was incurred in such circumstances as to make it fair and equitable, that the disallowance or surcharge should be remitted, the Minister in charge of the subject of Finance may, by order direct that the same shall be remitted, but that the amount of the costs and expenses which may have been incurred by the auditor in the enforcing of such disallowance or surcharge or any portion thereof, shall be recovered from such person.

(5) Any amount directed to be recovered from any such person by any order made by the Minister in charge of the subject of Finance under this section may forthwith be recovered by the urban or rural education authority in the same manner as any sum certified to be due by an auditor is recoverable under the provisions of this section.

(6) Every sum certified to be due from any person by any auditor as aforesaid shall be paid by such person to the urban or rural education authority within fourteen days after the decision of the auditor has been communicated to such person, unless there is an appeal against the decision and if such sum is not so paid and there is no such appeal, it shall be the duty of the urban or rural education authority to recover the same from such person, and any sum so certified, together with all costs and expenses incurred in connexion with the enforcement thereof, may, on application to a Magistrate having local jurisdiction, be recovered in the same manner as if it were a fine imposed by such Magistrate.

Every officer to be deemed a public servant.

**32.** Every officer appointed under this Part shall be deemed to be a public servant within the meaning of the Penal Code.

Application of Parts I, IV, V and VII.

**33.** Upon the application of this Part of this Ordinance by Order under section 19 to the area within the administrative limits of a Municipal Council or an Urban Council or a Town Council or to a village area Parts I, IV, V and VII of this Ordinance shall also apply and have effect within such area,

and the regulations made under Part V of this Ordinance, including the penal provisions thereof, shall so far as they relate or are applicable to such area, be effectual and binding upon all persons within such area.

**PART IV**

**RELIGION IN SCHOOLS AND MANAGERS**

**34.** No applicant shall be refused admission into any assisted school on account of the religion, nationality, race, caste, social status or language of such applicant or of either of his parents. Religion, &c. no bar for admission.

**35.** (1) Subject as hereinafter provided, instruction in the religion of the parent of each pupil in a Government school shall be given to that pupil, as part of his course of studies in the school, by a person who is an adherent of that religion and who has been approved by the Director-General: Religious instructions.

Provided, however, that—

- (a) instruction in a particular religion need not be given in a Government school where there are not more than fifteen pupils whose parents are of that religion, and
- (b) attendance of a pupil at any instruction in, or any worship or observance connected with, the religion of his parent shall not be required or permitted if the parent has voluntarily made a written request to the principal of the school to exempt the pupil from such attendance.

(2) The principal or any person for the time being in charge of a Government school or an assisted school shall not require or permit a pupil of the school to attend, in the school or in any hostel of the school or in any chapel or place of worship situated within the premises of the school, any instruction in, or any worship or observance connected with, a religion which is not the religion of the parent of the pupil.

(3) The time for any instruction in, or for any worship or observance connected with,



any religion at a meeting of a Government school or an assisted school shall be at the beginning or at the end or at the beginning and the end of such meeting, and shall be specified in a time table approved by the Director-General and kept permanently and conspicuously affixed in every classroom of the school.

- (4) For the purposes of this section—
- (a) the definition of " parent " in section 62 shall not apply, and
  - (b) the religion of the parent of a pupil shall be determined in accordance with the following provisions :—
    - (i) where the father of the pupil, being of sound mind, makes a declaration of his religion, that religion shall be deemed to be the religion of the parent of the pupil;
    - (ii) where, in the absence of the declaration referred to in the preceding paragraph (i), the mother of the pupil, being of sound mind, makes a declaration of her religion, that religion shall be deemed to be the religion of the parent of the pupil;
    - (iii) in any case other than that referred to in any of the preceding paragraphs (i) and (ii), the religion which any person having legal or actual control of the pupil declares to be the pupil's religion shall be deemed to be the religion of the parent of the pupil.

(5) In the case of any assisted school, the Director-General may, for the breach of any of the provisions of this section, withhold or refuse to pay any such grant from State funds as may be payable to the manager of the school or remove the school from the list of registered schools.

**36.** (1) The Director-General may appoint as the manager of an assisted school any person recommended in writing by the proprietor of the school.

(2) The Director-General may, for reasons to be stated by him in writing and communicated to the proprietor of an assisted school, refuse to appoint as the manager of that school the person recommended by the proprietor and may require the proprietor to recommend some other person as manager.

(3) In the event of the proprietor of an assisted school refusing or neglecting or being unable to recommend for appointment as manager of that school a person who appears to the Director-General to be suitable, it shall be lawful for the Director-General in his discretion to appoint a suitable person as manager.

(4) The Director-General may suspend or remove from office the manager of an assisted school either of the Director-General's own motion or upon a written request made in that behalf by the proprietor of the school.

(5) Where the proprietor of an assisted school makes a written request to the Director-General to suspend or remove from office the manager of the school, the Director-General may, for reasons to be stated by him in writing and communicated to the proprietor, refuse to suspend or remove the manager from office.

(6) A person suspended or removed from the office of manager of an assisted school by the Director-General of his own motion shall be entitled to appeal to the Minister against the suspension or removal. The decision of the Minister on any appeal under this subsection shall be final and conclusive.

(7) The proprietor of an assisted school shall be entitled to appeal to the Minister against any decision of the Director-General refusing to appoint as manager of the school the person recommended by the proprietor, or appointing as manager a person other than the person recommended by the proprietor, or suspending or removing from the office of manager any person appointed on the recommendation of the proprietor, or refusing to suspend or remove the manager from office. The decision of the Minister on such appeal shall be final and conclusive.

Managers of assisted schools.

(8) Every appointment, retirement or removal of the manager of an assisted school shall be notified by the Director-General in the Gazette.

(9) No teacher of an assisted school, and no person who derives any profit or emolument from an assisted school shall be appointed or shall act as manager of that school.

(10) Every person who—

(a) after he is suspended or removed from the office of manager of an assisted school by the Director-General, refuses to vacate his office or resists or obstructs any other person lawfully appointed to be or to act as the manager in entering upon or executing the duties of the manager, or

(b) acts as manager in contravention of the provisions of subsection (9),

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, and, in the case of a continuing offence, to a fine not exceeding ten rupees in respect of each day during which the offence is continued.

**PART V**

**POWER OF MINISTER To  
MAKE REGULATIONS**

Regulations.

**37.** (1) The Minister may make regulations which shall be known as the Code, either for the whole of Sri Lanka generally or for a defined area or areas specially, for the purpose of giving effect to the principles and provisions of this Ordinance:

Provided that no regulation shall be made under this section in pursuance of any policy aimed against any particular assisted denominational schools as such.

(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 ;—

*I.—Education*

(a) the establishment, taking over, transfer, continuance, discontinuance, grading, staff, and equipment of schools, including nursery schools for the education of children who have not attained the age of five years, schools for the education of blind, deaf, defective, or epileptic children, and schools in any sanatorium for the reception of pupils and teachers from schools in epidemic-stricken areas;

(b) the conditions subject to which grants from State funds will be paid in respect of an assisted school, the purposes for which such grants will be paid, and the conditions for the breach of which such grants will be stopped;

(c) the registration of schools after the 1st day of July, 1947, and the special conditions subject to which grants from State funds will be payable in respect of such schools, including conditions restricting the payment of grant in respect of pupils whose parents do not profess the religion of the proprietor of any school so registered ;

(d) the admission to schools, the course and schedules of studies, and the books and apparatus to be used therein;

(e) the language through the medium of which instruction shall be given in any class in any Government school or assisted school;

(f) the classification of pupils other than those attending unaided schools, and their assignment to classes or schools, according to their proficiency and aptitude;

(g) the discipline to be enforced in such schools;

- (h) the inspection and examination of such schools and the manner in which inspecting officers shall perform their duties;
- (i) the medical inspection or treatment of children attending such schools;
- (j) the health and well-being of children attending such schools, including the supply of free meals, free clothes, and free books to the children of poor parents attending such schools;
- (k) the classification of schools and the conditions of admission into any specified class of schools;
- (l) the measures and the expenditure necessary for securing to deserving children adequate educational facilities and industrial training;
- (m) the duties of managers and the manner of their performance;
- (n) the qualifications, period of training, salaries, appointment, registration, grading, suspension, and removal of teachers;
- (o) the appointment of officers to secure the attendance of children at schools in areas in which regulations for their compulsory attendance are in force and for the payment of the salaries of such officers;
- (p) the power of such officers to demand and obtain information with regard to children who are required by such regulations to attend such schools, and to require the production of such children before them for inspection;
- (q) the entry by such officers upon any premises and the search thereof for the purpose of gaining or verifying information with regard to any such children;
- (r) specifying the limits of any area within which efficient provision has been made for education by means of schools situated within or outside such area;
- (s) requiring, subject to such exemptions and qualifications as may be contained in such regulations, the parent of any child not less than five and not more than sixteen years of age residing within such area, to cause such child to attend a school unless he has made adequate and suitable provision for the education of such child; but so however that no regulation made for this purpose shall involve the attendance at any school by any child from any distance exceeding two miles;
- (t) determining the days on which and the hours during which children shall attend school, and the days which shall be observed as holidays by all schools or any specified school or class of schools;
- (u) provision for the infliction in the event of a contravention of any such regulation, of the penalty of a fine not exceeding one rupee, and in the case of a continuing offence, an additional fine not exceeding fifty cents per day;

II.—*Training of Teachers*

- (a) the establishment, taking over, transfer, continuance, discontinuance, staff, and equipment of, and the control of the admission of students into, training colleges for teachers;

III.—*Special Schools*

- (a) the providing or aiding of special schools which shall be subject to such provisions of the Code as the Director-General may think fit to apply;

IV.—*General*

- (a) the terms and conditions relating to the award of exhibitions and

scholarships for purposes of study whether in Sri Lanka or abroad ;

- (b) the education of adults;
- (c) technical, agricultural and commercial education;
- (d) the standards of accommodation and of sanitation to be maintained in Government and assisted schools, and also in all other schools or places in which classes attended by children of school-going age are held, and the exhibition of notices in the case of an approved school, that it is an approved school;
- (e) all matters stated or required in this Ordinance to be prescribed ;
- (f) generally for the regulation and conduct of the business of the School Examinations Advisory Council, Educational Research Council, local advisory committees, local education committees and local education sub-committees, the quorum for the meetings and the procedure to be followed at the meetings thereof.

(3) No regulation made under this section shall have effect until it has been approved by Parliament; nor until notification of such approval has been published in the Gazette.

(4) Every regulation made by the Minister shall, upon publication of the notification of the approval of that regulation as provided for in subsection (3), be as valid and effectual as if it were herein enacted.

Explanation of adequate and suitable provision by parent.

**38.** (1) For the purposes of the regulations made under this Ordinance, a parent shall be deemed to have made adequate and suitable provision for the education of his child—

- (a) if he proves that his child is in regular attendance at a school approved by the Director-General or Chief Education Officer as providing adequate and suitable education; or

(b) if he proves that he has made such other provision for his child's education as the Director-General or Chief Education Officer shall certify to be adequate and suitable; or

(c) if he produces a certificate from the Director-General or Chief Education Officer recommending that the child shall be exempted from compulsory attendance; or

(d) if he produces a certificate from the Director-General exempting his child from compulsory attendance on the ground that the Director-General is unable to procure the admission of the child into a school conveniently situated in the area in which he resides.

(2) (a) No parent shall be convicted for a contravention of any regulations made under this Ordinance requiring his child to attend school, if he proves to the satisfaction of the court that he had reasonable cause for not causing such child to attend-

(b) For the purpose of this subsection, a person shall be deemed to have a reasonable excuse for not causing his child to attend school, if he proves that the child is prevented from attending by sickness or other unavoidable cause.

**PART VI**

**ESTATE SCHOOLS**

**39.** (1) This Part of this Ordinance shall, subject to the provisions of subsection (2), apply to every estate on which there are more than twenty-seven children who are not less than five and not more than fourteen years of age and whose parents are resident on that estate. Application of part VI.

(2) Where the Director-General certifies in writing that the children resident on any estate referred to in subsection (1) can be conveniently educated in any school other than a school established and maintained under this Part of this Ordinance, the Minister may, by Order published in the Gazette, declare that this Part shall not

apply to such estate; and where such Order is made in respect of such estate, the provisions of the other Parts of this Ordinance shall apply to the education of such children.

Premises to be set apart on estates for establishing schools for children resident on the estates.

**40.** (1) Subject to the provisions of subsection (2), the owner of an estate shall set apart on the estate premises consisting of—

- (a) a building which conforms to such standard as may be prescribed and which is to be used for educating the children on the estate who are required to attend school under section 43,
- (b) a habitable house for a married head teacher, and
- (c) an area of uncultivated land not less than one acre in extent situated in the vicinity of the aforesaid building and suitable for use partly as a school playground and partly as a school garden.

(2) The owners of two or more estates may, with the written sanction of the Director-General, Jointly set apart on any of those estates such premises as are referred to in subsection (1) for the purposes of a common school for the children on those estates who are required to attend school under section 43, and where such premises are so set apart, the owner of each of those estates shall be deemed to have adequately complied with the provisions of subsection (1).

(3) Where the owner of an estate has failed to comply or is not deemed to have complied with the provisions of subsection (1), the Director-General may, by written notice served on the person for the time being in charge of the estate, direct the owner to conform to those provisions within such period not less than twelve months as may be specified in the notice; and where such notice is served on the aforesaid person and the owner commits default in complying with the notice, the Director-General or any person authorized by him may enter the estate with such assistants, servants, implements and materials, and do

such acts and take such measures, as may be necessary to make good the default of the owner.

(4) The amount of the expenses incurred by the Director-General in causing any act to be done or any measure to be taken on an estate under subsection (3) shall be deemed to be a debt due to the State from the owner of the estate and shall be recovered accordingly.

**41.** (1) The owner and the person for the time being in charge of an estate shall permit the Director-General to establish and maintain a Government school on premises set apart on the estate under section 40.

Establishment and maintenance of Government schools on premises set apart on estates under section 40.

(2) Where a Government school is maintained on premises set apart on an estate under section 40, the Director-General shall pay to the owner of the estate rent at such rates and at such times as may be prescribed.

(3) The owner of an estate shall keep in repair any building or house in respect of which the Director-General pays rent under subsection (2). Where any necessary repairs to such building or house are not effected by the owner, the Director-General shall, by written notice served on the person for the time being in charge of the estate, require the owner to effect those repairs within such period not less than two months as may be specified in the notice; and where such notice is served on the aforesaid person and the owner commits default in complying with the notice, the Director-General shall cause those repairs to be effected and shall deduct their cost from the rent payable to the owner.

(4) So long as the Director-General pays rent under subsection (2) in respect of premises set apart on an estate under section 40, no action or proceedings for the ejection of the Director-General or any person authorized by the Director-General from those premises shall be instituted in or entertained by any court.

**42.** Where a Government school is maintained on premises set apart on an estate under section 40, no person shall, without the written permission of the

Prohibition of unauthorized use of premises set apart under section 40.

Director-General, use any part of those premises for any purpose other than a purpose of that school.

Parents to cause children to attend school.

**43.** Where the parent of a child not less than five and not more than fourteen years of age is resident on an estate, he shall cause the child to attend school.

Entry into estates.

**44.** The owner and the person for the time being in charge of an estate shall permit the Director-General or any person authorized by the Director-General—

- (a) to enter, inspect or occupy any premises set apart on the estate under section 40, or
- (b) to transport by vehicle any person or article into or out of those premises, or
- (c) to enter the estate and exercise the powers conferred by subsection (3) of section 40.

Offences.

**45.** (1) A parent who contravenes the provisions of section 43 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one rupee, and in the case of a continuing offence, an additional fine of fifty cents in respect of each day on which the offence is continued.

(2) The owner or the person in charge of an estate who contravenes the provisions of subsection (1) of section 41 or the provisions of section 44, and any person who contravenes the provisions of section 42, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees or to imprisonment of either description for any period not exceeding three months.

(3) The owner of any estate who commits default in complying with any notice served under subsection (3) of section 40 on the person for the time being in charge of the estate shall be guilty of an offence, and liable on conviction after summary trial before a Magistrate to a fine not exceeding five hundred rupees, and in addition, to a further fine not exceeding fifty rupees for each day on which the offence is continued after conviction.

No prosecution for any offence under this subsection shall be instituted except by or with the written sanction of the Director-General.

**46.** For the purposes of this Part of this Ordinance—

interpretation of part VL

" estate " means any estate in which labourers are employed and of which ten acres or more are actually cultivated;

" labourer " means a labourer employed on an estate including a *kangany* and female labourer and any relative of a labourer resident upon the same estate.

**PART VII**

**GENERAL**

**47.** (1) No fees shall be charged in respect of admission to, or of the education provided in, a Government school or an assisted school.

Prohibition of fees for admission to or education in Government and assisted schools. [§ 2, 37 of 1958.]

(2) Notwithstanding anything in subsection (1), regulations may be made under this Ordinance authorizing the charging of a fee or fees from pupils in any Government school or assisted school in order to defray the expenses incurred in providing therein facilities for games or physical training or services for educational, recreational or health purposes, and such regulations may—

- (a) fix the maximum amount of such fee or fees;
- (b) specify the conditions, restrictions and exemptions subject to which such fee or fees may be charged ;
- (c) provide for a right of appeal to the Director-General against any decision relating to the charging of such fee or fees; and
- (d) prescribe the records which shall be maintained in schools where such fee or fees are charged and the particulars to be entered in such records.

(3) Notwithstanding anything in subsection (1), fees may be charged in respect of the admission or education of a pupil admitted or promoted to a class above standard VIII in any assisted school, if, but only if, the pupil has not been certified under regulations made in that behalf to be suitable for senior secondary education.

(4) In the case of any assisted school, the Director-General may, for the contravention of the provisions of subsection (1), withhold or refuse to pay any such grant from State funds as may be payable to the manager of the school or remove the school from the list of registered schools.

**48.** (1) It shall be the duty of any person who desires to open a school or give instruction in the Sinhala or any other language in any schoolroom or any building not previously used by him for the purpose to any class or classes attended by children of school-going age, at least two months before the opening of such proposed school or the commencing of such proposed instruction, to give written notice of his intention and to report particulars of such school or instruction to the Director-General, and thereafter supply such information as may be required by the Director-General, with regard to his school or his class or classes, and the courses of instruction he is giving or proposes to give :

Provided that the Director-General may in his discretion accept any notice given at any time within the aforesaid period of two months or waive the requirements of this section as to the notice in the special circumstances of any case.

(2) The Director-General may in his discretion refuse to approve of any school or course of instruction in respect of which notice is given under subsection (1) for the purposes of any grant from the State funds.

(3) No person who opens any school or gives any course of instruction in contravention of the provisions of subsection (1) shall be entitled to any grant or claim any grant from the State funds in respect of such school or course of instruction.

**49.** (1) No person shall, on or after the 1st day of June, 1951, maintain any unaided school unless the principal or other person for the time being in control of the school has notified to the Director-General in writing all such particulars relating to the school as the Director-General may, by notice published in the Gazette, require to be furnished to him in respect of unaided schools.

Notification of particulars relating to unaided schools.

(2) Where any school is maintained in contravention of subsection (1), the proprietor and the principal or other person for the time being in control of the school shall each be guilty of an offence and liable to a fine not exceeding one hundred rupees, and in the case of a continuing offence, to a further fine not exceeding ten rupees for each day on which the offence is continued.

**50.** It shall be lawful for the Director-General or any inspecting officer of the department, or the Chief Education Officer or any other person generally or specially authorized by the Director-General, to enter and inspect any school and inspect and examine the pupils therein and all the registers of admission and attendance of any such school.

Power of inspection.

**51.** (1) Where, after an unaided school has been examined under section 50, the Director-General is satisfied that the school is open to the complaint—

Discontinuance of unaided schools which are unsatisfactory

- (a) that, having regard to the number, ages and sex of the pupils attending the school, the accommodation provided at the school is inadequate or unsuitable, or
- (b) that the sanitary arrangements at the school are inadequate, or
- (c) that, having regard to the ages and sex of the pupils attending the school, efficient and suitable instruction is not provided at the school, or
- (d) that the proprietor of the school or any teacher employed therein is not a proper person to be the proprietor of a school or to be a teacher in a school, as the case may be, or

Duty of persons opening new schools to report to Director-General.

(e) that the education and training at the school does not accord effectively with the national interest or with the general educational policy of the Government, including the policy regarding the medium of instruction in schools,

the Director-General may cause to be served upon the proprietor of the school an order—

- (i) stating full particulars of the matters complained of and the measures necessary to remedy such matters,
- (ii) specifying the time, not being less than six months after the service of the order, within which such measures are to be taken, and
- (iii) directing that, in the event of such measures not being taken within such time, the school shall be discontinued forthwith after the expiry of such time.

(2) Every order served under this section shall also specify the time, not being less than one month after the service of the order, within which an appeal against the order may be preferred as hereinafter provided.

Appeal against order under section 51.

**52.** The proprietor of an unaided school on whom an order is served under section 51 may, within the time allowed in that behalf by the order, prefer a written appeal against the order to a tribunal of appeal constituted under section 53. Every appeal shall state the substance of the order against which the appeal is preferred and the grounds of appeal, and shall be addressed to the "Chairman, Tribunal of Appeal", and transmitted to the office of the Director-General so as to reach the Director-General within the aforesaid time.

Tribunal of appeal.

**53.** (1) For the purpose of constituting tribunals of appeal for hearing and determining appeals under section 52, there shall be established a panel of not less than ten persons appointed by the President.

(2) A person who is directly or indirectly engaged in the management of any school or who has no legal experience shall not be

eligible for appointment to the panel under subsection (1). Every person appointed to the panel shall, unless he earlier resigns his office or is removed therefrom by the President, hold office for such period as the President may determine at the time of the appointment. Any person vacating office by effluxion of time may be reappointed to the panel.

(3) Every tribunal of appeal shall consist of three persons selected from the panel by the Minister and shall be convened by the Director-General. The members of such tribunal shall elect one from among themselves as chairman of such tribunal. The decision of the majority of such members on any matter referred to such tribunal shall be the decision of such tribunal.

(4) It shall be the duty of the Director-General to submit to a tribunal of appeal constituted under this section every appeal preferred under section 52.

(5) Upon an appeal being submitted under subsection (4) to a tribunal of appeal, such tribunal may, after affording to the appellant and the Director-General or their representatives an opportunity of being heard and after considering such evidence as may be tendered by them or on their behalf, make an order—

- (a) that the order against which the appeal has been preferred shall be annulled, or
- (b) that the unaided school to which such order relates shall be discontinued unless the requirements of such order, subject to any modifications which may be specified by such tribunal, are complied with within the time so specified.

**54.** Where an order for the discontinuance of an unaided school, made under section 51 and not appealed against under section 52 or made under section 53, is not complied with within the time specified in that behalf in the order, the proprietor of that school shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees,

Non-compliance with an order for discontinuance of an unaided school to be an offence.



and, in the case of a continuing offence, an additional fine not exceeding ten rupees in respect of each day on which the offence is continued.

Jurisdiction in respect of offences.

55. (1) All offences under this Ordinance or under any regulations made thereunder shall be triable by a Magistrate's Court; or in the case of any offence committed within the jurisdiction of any Primary Court, by the Primary Court.

(2) The Primary Court shall have Jurisdiction to award the maximum punishment prescribed by or under this Ordinance for any offence thereunder, notwithstanding anything contained in any other written law to the contrary.

Power of Magistrate in certain cases to order child to be sent to certified industrial school.

56. (1) If within the jurisdiction of any Magistrate any child of school-going age neglects habitually, and without reasonable excuse, to attend school, or is found habitually wandering about the streets and not under proper control, or in the company of disorderly or immoral persons or of reputed criminals, it shall be the duty of the prescribed officer, after due warning to the child and to the parents of the child, if they can be found, to present a written report to the Magistrate.

(2) The Magistrate shall summon such child and the parents (if they can be found) before him, and, if satisfied of the truth of the report, may order such child, if a male, to be caned in accordance with the provisions of the Corporal Punishment Ordinance or order any such child to be sent to any school or institution approved by the Minister under the Children and Young Persons Ordinance (hereinafter referred to as "an approved school") for such period (subject to the limitations prescribed by the said Ordinance) as to such Magistrate shall seem proper.

(3) The costs of maintaining and educating the child at the approved school shall be defrayed, in the first instance, by the department, but the Magistrate may in his discretion issue an order to the parent of such child requiring such parent to pay the whole or any part of the costs of such maintenance, provided that such order may be made on the application of the prescribed officer.

57. With regard to proceedings under this Ordinance or under any regulations made thereunder, the following provisions shall have effect, namely :—

(1) The Magistrate or Judge of the Primary Court may, instead of imposing a fine, make an order directing that the child shall attend school, and that if he fails to do so, the person on whom such order is made shall pay a fine not exceeding the fine to which he is liable for failing to cause such child to attend school.

(2) The Magistrate or Judge of the Primary Court may require by summons any parent of a child required by regulations to attend school to produce the child before him and any parent failing without reasonable excuse, proof whereof shall lie on him, to comply with such summons, shall be guilty of an offence, and shall be liable on conviction after summary trial before a Magistrate or Judge of the Primary Court to a fine not exceeding five rupees.

(3) When a child is apparently of the age alleged for the purpose of the proceedings, it shall lie on the defendant to prove that the child is not of that age.

(4) A certificate purporting to be under the hand of the Director-General, or any officer of the department authorized by him, stating that a child has reached a particular standard of education, or is or is not under adequate and suitable instruction, or stating that any school does or does not provide adequate and suitable instruction, shall be sufficient evidence of the facts stated in such certificate.

58. Any private land which may be required for the purposes of, or in connexion with, the erection or extension of school buildings, teachers' houses, offices, or premises, or for the establishment of school gardens or playgrounds, or otherwise

Acquisition of land for purposes of the Ordinance.

for the purposes of this Ordinance, may be acquired by the State for such purpose under the provisions of the Land Acquisition Act, or of any other enactment for the time being in force providing for the acquisition of private land for public purposes.

Power to remove difficulties.

**59.** (1) If any difficulty arises in connexion with the application of this Ordinance or of any Part of this Ordinance within the administrative limits of any Municipal Council, Urban Council, Town Council, or Village Council, or of an area specified or defined under section 9 (1) (c) or in bringing into operation any of the provisions of this Ordinance, the Minister may make such order for removing the difficulty as he may judge to be necessary for that purpose, and any such order may modify the provisions of this Ordinance so far as may appear to him necessary for carrying the order into effect.

(2) Every order made under this section shall come into operation upon the date specified therein in that behalf, but shall be laid before Parliament as soon as may be after it is made and shall cease to have effect upon the expiration of a period of three months from the date upon which it came into operation, unless at some time before the expiration of that period it has been approved by a resolution passed by Parliament,

Provisions as to orders and schemes.

**60.** (1) Any order or scheme under this Ordinance may contain such incidental, consequential, or supplemental provisions as may appear necessary or proper for the purposes of the order or scheme.

(2) Any order or scheme made under this Ordinance may be altered or revoked by an order or scheme made in like manner and subject to the like provisions as the original order or scheme.

Exemption from the provisions of this Ordinance.

**61.** The provisions of this Ordinance shall not apply to any institutions, devoted mainly or entirely to the education in agriculture of persons who are not less than sixteen years of age.

**62.** (1) In this Ordinance, unless the context otherwise requires—

" advisory council" means the Central Advisory Council established under section 5;

" assisted school" means a school to which aid is contributed from State funds;

" department" means the Department of Education;

" Director-General " means the Director-General of Education and includes any officer of the department to the extent to which he is, by the authority of the Director-General, empowered to exercise or perform any of the powers and duties of the Director-General under this Ordinance;

" educational needs " means such facilities for adequate educational and industrial training as may be prescribed by regulations;

" Chief Education Officer" means the officer referred to in section 10 (2);

" Educational Research Council " means the body established under section 16;

" functions " includes powers and duties ;

" Government school" means a school established, whether wholly or partly before or after the date on which this Ordinance comes into operation, and maintained entirely from State funds;

" grant" means any form of subvention from State funds including salaries paid direct to the teacher by the department;

" local advisory committee " means the committee referred to in section 9 ;

" local education committee " means the committee referred to in section 24(1);

"local education scheme" means the scheme referred to in section 22;

"local education sub-committee" means the sub-committee referred to in section 24 (2);

"manager" in relation to an assisted school means the person who appoints, transfers, or dismisses or discontinues teachers in such assisted school;

"officer" includes any schoolmaster, duly qualified medical practitioner, treasurer, master or matron or warden of an institution or school or any other person who is for the time being employed in carrying this Ordinance or Part III of this Ordinance into execution;

"parent" includes a guardian and any person who has the legal or actual control of a child or has direct benefit from the wages of a child;

"prescribed" means prescribed by this Ordinance or by regulations made under this Ordinance;

"proprietor", in relation to any school, means any person who, or body of persons which, in the opinion of the Director-General, has for the time being the right to maintain and conduct the school, whether by virtue of the legal title to the land or by virtue of any right to the possession and control of the building or by virtue of any permission whether express or implied given by the legal owner of the land or the person legally entitled to the possession of the building, as the case may be, to conduct the school therein;

"School Examinations Advisory Council" means the body established under section 13 ;

"school-going age" means such age between a prescribed maximum and minimum age at which a child is liable to attend school;

"State funds" means the moneys provided by Parliament for the purposes of this Ordinance;'

"Town Council" means a Town Council established under the Town Councils Ordinance;

"unaided school" means a school which is not a Government school or an assisted school;

"Urban Council" means an Urban Council established under the Urban Councils Ordinance;

"Village Council" means a Village Council established under the Village Councils Ordinance.

(2) The occupier of the premises in which any child usually resides shall be deemed to have the actual custody of such child until the contrary is proved.

63. Notwithstanding the repeal of such Transitional provisions. of the provisions of the Rural Schools Ordinance, 1907, as are still in force,\* and of the Education Ordinance, 1920\*—

(a) nothing in such repeal shall affect any regulation or by-law made under the repealed Ordinances, but any such regulation or by-law shall continue in force and shall have effect as if it were a regulation made by the Minister under this Ordinance and shall cease to be operative as and from the date on which regulations made by the Minister under this Ordinance in substitution for such regulation or by-law shall come into force; and any reference to a District School Committee or District Committee in any such regulation or by-law shall be construed as a reference to the Director-General;

(b) the property and funds of which a District School Committee or District Committee shall be possessed, or which a District School Committee or a District Committee shall own, under or by

Repealed by section 51 of Ordinance No. 31 of 1939.

reason of the provisions of the repealed Ordinances, and all the rights, duties, liabilities and obligations of any such District School Committee or District Committee, shall be deemed to be transferred to the State:

such six months and shall be entitled to claim that their past services under the District School Committee or District Committee, as the case may be, shall be reckoned as service under the Government for purposes of pension;

Provided that—

- (i) all officers, clerks and other servants employed by a District School Committee or a District Committee under any repealed Ordinance shall continue to officiate in their several capacities as officers, clerks and servants in the employment of the department on a new monthly contract of service terminable on a month's notice; and
- (ii) such officers, clerks and servants who may be discontinued within a period of six months from such date shall not be entitled to any gratuities, pensions or allowances save as prescribed by regulations; and
- (iii) such officers, clerks and servants who are not discontinued from service within the aforesaid period of six months shall be deemed to be employed by the department under this Ordinance on the expiration of

Provided, further, that in any case in which doubts shall arise—

- (i) as to the extent to which the property or funds or the rights, powers, duties, debts, liabilities or obligations of a District School Committee or a District Committee vest in the Government, or
- (ii) as to the terms of the contract of service of any officer, clerk or servant with a District School Committee or a District Committee,

the Director-General shall refer the matter if it is of the description referred to in paragraph (i) for the decision of the Minister, and if it is of the description referred to in paragraph (ii) for the decision of the Secretary to the Ministry, and the decision of the Minister or the Secretary to the Ministry, as the case may be, shall be final and binding upon all persons whomsoever.

CHAPTER 633

EXPLOSIVES

Acts  
Nos.21 of 1956,  
33 of 1969,  
Laws  
Nos.36 of 1976,  
14 of 1978.

AN ACT TO CONTROL, AND TO ENABLE THE PROHIBITION OF, THE MANUFACTURE, IMPORTATION, EXPORTATION, POSSESSION, SALE, EXPOSURE FOR SALE, SUPPLY, PURCHASE, USE AND TRANSPORT OF ANY EXPLOSIVES.

[Sections 7, 2, 3(I), 6, II, 13, 14, 15, 16, 19, 22, 32, 33 and 37—17th February, 1956.]

[Remaining Sections—1st July, 1957.]

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

PART II

PART I

RETURNS, LICENCES AND PERMITS

ADMINISTRATION

Controller and Deputy  
Controllers of Explosives.  
[§2, Law 14 of 1978.]

**2.** (1) The Secretary to the Ministry shall be the Controller of Explosives for the purposes of this Act.

(2) Every Assistant Secretary to the Ministry shall be a Deputy Controller of Explosives for the purposes of this Act.

Assistant  
Controllers of Explosives and  
other staff.  
[§3, Law 14 of 1978.]

**3.** (1) There may be appointed such number of persons by name or by office, to be or to act as Assistant Controllers of Explosives, and such number of other officers and servants as may be necessary for the purposes of this Act.

(2) For the purposes of this Act there shall be inspectors of explosives who shall be police officers not below the rank of Sergeant.

Deputy  
Controllers, Assistant  
Controllers, inspectors of  
explosives and licensing  
authorities to be subject to  
direction of Controller.  
[§5, Law 14 of 1978.]

**\*5.** (1) Every Deputy Controller, every Assistant Controller and every inspector of explosives shall, in the exercise or performance of his powers or duties, be subject to the general or special directions of the Controller.

(2) Every licensing authority shall, in the exercise or performance of his powers or duties, be subject to the general or special directions of the controller.

Licensing  
authorities may delegate  
their powers and duties.

**6.** The powers or duties of any licensing authority may be exercised or performed by any public officer authorized in writing in that behalf by such licensing authority.

\* Section 4 is repealed by Law No. 14 of 1978.

**7.** (1) Subject to the provisions of subsection (2), every person who, on the 1st day of July, 1957, has in his possession or under his control a stock of any explosive, shall, within a period of fourteen days reckoned from that date, furnish to the licensing authority for the district in which such stock is kept a return specifying—

Persons having stocks of explosives on 1st July, 1957, to furnish returns.

- (i) the name and address of that person;
- (ii) the nature and quantity of such stock; and
- (hi) the purpose for which and the premises in which such stock is kept.

(2) The provisions of subsection (1) shall not apply to such quantity of safety cartridges or fireworks as does not exceed the prescribed quantity.

**8.** (1) No person, other than a licensee or permittee who is authorized by his licence or permit to do so, shall import or export any explosive.

Prohibition of importation, exportation, manufacture, sale, exposure for sale or supply of explosives by persons other than licensees or permittees. [§ 3, 33 of 1969.]

(2) No person, other than a licensee who is authorized by his licence to do so, shall manufacture, sell, expose for sale or supply any explosive.

Licences and permits relating to explosives.

[§ 4, 33 of 1969.]

**9.** (I) No person shall, except under the authority of a licence, carry on the business of a manufacturer, importer, exporter or supplier of any explosives, or acquire, possess, transport, sell, expose for sale or use any explosives for the purposes of such business-

(2) Subject to the provisions of section 10, no person shall, except under the authority of a permit, import, export, acquire, possess, transport or use any explosives for any purpose other than that of such business as is referred to in subsection(1).

Exemption up to prescribed quantity of any class of explosives.

[§ 5, 33 of 1969.]

**10.** No permit shall be required for the acquisition, possession, transport and use of such quantity of any class of explosives as does not exceed the quantity prescribed in respect of such class of explosives.

Regulations relating to explosives.

**11.** Regulations may be made under this Act—

- (a) to classify explosives;
- (b) to prohibit or regulate the manufacture, importation, exportation, sale, exposure for sale, possession, use, and supply of any explosives;
- (c) to exempt, subject to such conditions as may be imposed, any school or other educational institution from the requirement of obtaining a permit for the acquisition, possession, transportation or use of any class or classes of explosives ;
- (d) to regulate the loading, unloading and transport of any explosives ; and
- (e) to regulate the storage of any explosives.

[§ 6, 33 of 1969.]

[§ 6, 33 of 1969.]

Authority granted by licences and permits.

**12.** (1) A licence granted for the purpose of carrying on the business of a manufacturer of explosives shall, subject to the conditions set out in the licence and the provisions of this Act and of the regulations made under this Act, authorize the licensee—

- (a) to manufacture explosives of the class or classes specified in the licence,

(b) to possess, transport, sell, expose for sale or supply the explosives manufactured under the authority of the licence, and

[§ 7, 33 of 1969.]

(c) to acquire, possess, transport and use, for the purpose of such manufacture as aforesaid, any explosives specified in the licence as being required for that purpose.

(2) A licence granted for the purpose of carrying on the business of an importer of explosives shall, subject to the conditions set out in the licence and the provisions of this Act and of the regulations made under this Act, authorize the licensee—

(a) to import explosives of the class or classes specified in the licence, and

(b) to possess, transport, sell, expose for sale or supply the explosives imported under the authority of the licence.

[§ 7, 33 of 1969.]

(3) A licence granted for the purpose of carrying on the business of an exporter of explosives shall, subject to the conditions set out in the licence and the provisions of this Act and of the regulations made under this Act, authorize the licensee—

[§ 7, 33 of 1969.]

(a) to export explosives of the class or classes specified in the licence, and

(b) to acquire, possess and transport the explosives to be exported under the authority of the licence.

(4) A licence granted for the purpose of carrying on the business of a supplier of explosives shall, subject to the conditions set out in the licence and the provisions of this Act and of the regulations made under this Act, authorize the licensee—

(a) to acquire explosives of the class or classes specified in the licence, and

(b) to possess, transport, sell, expose for sale or supply the explosives acquired under the authority of the licence.

[§ 7, 33 of 1969.]

(5) A permit, other than a permit granted for the importation or exportation of explosives, shall, subject to the conditions

[§ 7, 33 of 1969.]

set out in the permit and the provisions of this Act and of the regulations made under this Act, authorize the permittee to acquire, possess, transport and use, for the purpose specified in the permit, explosives of the class or classes specified.

[§ 7, 33 of 1969.]

(6) A permit granted for the importation of any explosives shall, subject to the conditions set out in the permit and the provisions of this Act and of the regulations made under this Act, authorize the permittee to import explosives of the class or classes specified in the permit and to possess, transport and use the explosives imported under the authority of the permit.

[§ 7, 33 of 1969.]

(7) A permit granted for the exportation of any explosives shall, subject to the conditions set out in the permit and the provisions of this Act and of the regulations made under this Act, authorize the permittee to export explosives of the class or classes specified in the permit and to acquire, possess and transport the explosives to be exported under the authority of the permit.

[§ 7, 33 of 1969.]

**13.** (1) Every application for a licence or permit shall—

Applications for licences and permits.

- (a) be made to the licensing authority for the district in which the explosives in respect of which the application is made will be kept,
- (b) be substantially in such one of the prescribed forms as may be appropriate to the case,
- (c) state the particulars which that form requires to be stated, and
- (d) be signed by the applicant.

(2) A licensing authority may direct an applicant for a licence or permit to furnish him with such information as he may indicate in the direction for the purpose of enabling him to dispose of the application; and if the applicant fails to comply with any such direction, the licensing authority may refuse to grant the licence or permit to the applicant.

**14.** (1) No licence or permit shall be granted to any person—

Eligibility for licences and permits.

- (a) who is convicted of any offence under any of the sections of the Penal Code enumerated in the Schedule to this Act, or under the Offensive Weapons Act, or
- (b) who has not attained the age of eighteen years, or
- (c) during the period of the suspension of any licence or permit previously granted to him.

[§ 8, 33 of 1969.]

(2) A licence or permit granted to any person in contravention of subsection (1) shall be invalid.

(3) A person may be refused a licence or permit—

- (a) if a licence or permit previously granted to him has been cancelled or suspended, or
- (b) if he has been convicted of an offence under this Act, or of an offence under any other written law which was committed in connexion with the possession or use of any gun or explosive or in the commission of which any gun or explosive was used, or

(c) when (for reasons to be recorded by him in writing) the licensing authority deems it necessary for the security of the public peace to refuse to issue a licence or permit to an applicant, or

[§ 8, 33 of 1969.]

(d) if the licensing authority is satisfied that the possession and use of explosives by an applicant is dangerous to the life or property of any other person or persons.

[§ 8, 33 of 1969.]

**15.** No licence or permit shall be granted to any person except upon the payment of such one of the prescribed fees as may be appropriate to the case. The fee shall be paid in the prescribed manner.

Fees for licences and permits.

Grant of licences and permits and copies thereof.

**16.** (1) Subject as hereinbefore provided in this Act, a licensing authority may in his discretion grant or refuse to grant a licence or permit to an applicant therefor.

(2) A licensing authority may grant a licence or permit subject to such conditions as he may deem necessary. Such conditions shall be set out in the licence or permit.

(3) A licensing authority shall, in exercising his discretion under subsection (1), have regard to all the circumstances of the case and particularly the fitness of the applicant to be a licensee or permittee.

(4) The decision of a licensing authority to grant or refuse to grant a licence or permit shall, subject to any decision on-an appeal under this Act from the decision of the licensing authority, be final and conclusive and shall not be called in question in any court.

[§9,33 of 1969.]

(5) The Controller may in such circumstances as he may deem necessary, cause the issue of copies of licences or permits issued under this Act to the holders thereof on payment of the prescribed fee.

Duration of licences and permits.

**17.** (1) Subject to the provisions of subsection (3), every licence shall, unless it is earlier cancelled, expire on the thirtieth day of June next succeeding the date on which it is expressed to come into force.

(2) Subject to the provisions of subsection (3), every permit shall, unless it is earlier cancelled, be in force for such period as shall be specified therein.

(3) A licence or permit which is suspended for any period shall not be in force during that period.

Renewal of licences.

[§ 10, 33 of 1969.]

**18.** (1) The licensing authority who issued a licence may, on application made to him not less than thirty days prior to the date of the expiry of the licence, renew the licence. A licence which is renewed shall, unless it is earlier cancelled, expire on the thirtieth day of June next succeeding the date of expiry of the licence immediately preceding its renewal.

[§ 10, 33 of 1969.]

(2) Where any person fails to make the necessary application for the renewal of a licence within the time specified in subsection (1), the licensing authority may

in his discretion allow the renewal of such licence on payment, in addition to the fee prescribed for such licence, of a fine equal to the amount of the fee prescribed for such a licence.

(3) The provisions of sections 13 to 16 (both inclusive) shall, *mutatis mutandis*, apply in the case of a renewal of a licence in like manner as they apply in the case of the grant of a licence.

**19.** Where a licensing authority refuses to grant a licence or permit or to renew a licence, he shall cause notice of the refusal to be given to the applicant for the licence or permit or for the renewal. The notice shall set out the grounds of the refusal.

Communication of refusal to applicant.

**20.** Every licence or permit shall be subject to the following conditions:—

General conditions applicable to licences and permits.

(a) all explosives which by virtue of the licence or permit are in the possession or under the control of the licensee or permittee shall be loaded, unloaded, transported and kept in accordance with regulations made under this Act;

(b) no such explosive shall be used or appropriated otherwise than is authorized by the licence or permit;

(c) the licensee or permittee shall, in respect of such explosives, maintain in such form as may be approved by the licensing authority by whom the licence or permit was granted such records as that authority may require; and

(d) the licensee or permittee shall furnish to such licensing authority returns or other information which such licensing authority may require in respect of such explosives.

**21.** (1) (a) Where a licensee or permittee is convicted by a court of an offence under any of the sections of the Penal Code enumerated in the Schedule to this Act, or under the Offensive Weapons Act, the court shall cause notice of such conviction to be given to the licensing authority who granted a licence or permit to such licensee or permittee, and such licensing authority shall, upon receipt of

Suspension or cancellation of licences and permits. [§ 11, 33 of 1969.]



such notice, by written order cancel that licence or permit. Such order shall specify the grounds of cancellation of such licence or permit.

(b) Where a licensee or permittee is convicted by a court of an offence under this Act, or of any offence under any other written law which was committed in connexion with the possession or use of any gun or explosive or in the commission of which any gun or explosive was used, the court shall cause notice of such conviction to be given to the licensing authority who granted a licence or permit to such licensee or permittee, and such licensing authority may, upon receipt of such notice, by written order suspend that licence or permit for a period specified in the order or cancel that licence or permit. Such order shall specify the grounds of suspension or cancellation of such licence or permit.

(2) Where a licensing authority makes order suspending or cancelling a licence or permit under subsection (1), he shall cause notice of the order to be given to the licensee or permittee.-

(3) An order under subsection (1) suspending or cancelling a licence or permit shall, subject to any decision on an appeal under this Act from that order, be final and conclusive and shall not be called in question in any court.

(4) An order under subsection (1) suspending or cancelling a licence or permit shall not take effect during the time allowed for the making of an appeal under this Act from such order and, if such an appeal is made, during the pendency of the appeal, but no act authorized by the licence or permit to be done shall be done during the time allowed for the making of such appeal or during the pendency of such appeal. Where no such appeal is made within the time allowed therefor, such order shall take effect on the expiry of that time, and where such an appeal is made and disallowed, such order shall take effect on the day immediately following the date on which the appeal is disallowed.

Appeals.

22. (1) An applicant for a licence or permit or for the renewal of a licence who is aggrieved by the decision of a licensing

authority refusing to grant the licence or permit or to renew the licence, and a licensee or permittee who is aggrieved by the order of a licensing authority suspending or cancelling his licence or permit, may appeal in writing from that decision or order to the Controller within a period of fourteen days reckoned from the date of the service of notice of that decision or order on him.

(2) The Controller shall, in considering an appeal under subsection (1), have regard to all the circumstances of the case and particularly the fitness of the appellant to be, or to continue to be, a licensee or permittee.

(3) The decision of the Controller on any appeal preferred under the preceding provisions of this section shall be final and conclusive and shall not be called in question in any court.

23. Where a licensee dies—

Continuance of business of a deceased licensee.

(a) his legal representative, or, if there is no such representative, the person having the control and management of the deceased's business in explosives shall forthwith notify in writing such death and the date of such death to the Controller and to the licensing authority who granted a licence to such licensee, and

(b) such representative or, if there is no such representative, the person having the control and management of such business may, notwithstanding that he is not authorized to do so by a licence, carry on such business for a period not exceeding one month commencing on the date of such death, and it shall not be an offence under this Act to carry on such business for that period without a licence.

24. Where, while any explosives are possessed by a licensee or permittee under the authority of his licence or permit, such licence or permit ceases to be in force, he or, if he is dead, his legal representative or, if there is no such representative, the person having the control and management of the deceased's business in explosives shall

Directions as to disposal of explosives where a licence or permit ceases to be in force.

comply with such directions relating to the disposal of those explosives as may be issued by the licensing authority who granted such licence or permit.

(e) examine any records maintained under this Act and take copies of such records.

**PART III**

**POWERS OF THE CONTROLLER, AND OFFENCES AND PENALTIES**

**25.** The Controller may—

(a) enter and inspect any place, or stop, enter and inspect any vehicle or vessel in which—

(i) any explosive is manufactured, possessed, used, supplied, sold, exposed for sale, transported, imported or exported under a licence or permit, or

(ii) he has reason to believe that any explosive has been or is manufactured, possessed, used, supplied, sold, exposed for sale, transported, imported or exported in contravention of this Act or of any regulations made under this Act, or

(iii) he has reason to believe that any explosive in a deteriorated condition is possessed ;

(b) search for explosives in such place, vehicle or vessel;

(c) take samples of any explosive found in such place, vehicle or vessel on payment of the value thereof;

(d) where he has reason to believe that any explosive found in any such place, vehicle or vessel is in a deteriorated condition—

(i) cause such explosive to be removed from such place, vehicle or vessel without payment therefor; and

(ii) give directions as to the use or disposal of such explosive; and

**26.** (1) The Controller may, if he has reason to believe that any offence under this Act has been or is committed, seize and detain any article in connexion with which the offence is believed to have been or to be committed or which is believed to have been or to be used in or in connexion with the commission of the offence.

(2) Where the Controller seizes any article under subsection (1), he shall produce that article as soon as possible before the Magistrate's Court within whose jurisdiction that article is seized, and upon the production of that article, the court—

(a) shall make such order as it may deem fit relating to the custody of that article pending its disposal under subsection (5); and

(b) either of its own motion or at the request of such Controller or of the person from whose possession that article was seized, may, if that article is or is suspected to be an explosive, cause a sample of that article to be sent to the Government Analyst for an analysis thereof and a certificate specifying the results of the analysis.

(3) Where in any prosecution of a person for an offence under this Act, a certificate of the Government Analyst is produced in court to the effect that he is satisfied that an article in respect of which the offence is alleged to have been committed is an explosive as defined in this Act, the court shall presume, until the contrary is proved, that the article in respect of which the offence is alleged to have been committed is an explosive as defined in this Act.

(4) Where in any prosecution of a person for an offence under this Act, a certificate of the Government Analyst is produced in court to the effect that he is satisfied that an article in respect of which the offence is alleged to have been committed is not an authorized explosive as defined in the regulations made under this Act, the court

Power to seize articles. [§ 7, Law 14 of 1978.]

[§ 7, Law 14 of 1978.]

[§ 13, 33 of 1969.]

[§ 13, 33 of 1969.]

[§13, 33 of 1969.]

Powers of inspection and search. [§ 12, 33 of 1969.]

[§ 12, 33 of 1969.]

shall presume, until the contrary is proved, that the article in respect of which the offence is alleged to have been committed is not an authorized explosive as defined in the regulations made under this Act.

Magistrate, be liable to a fine not exceeding two thousand five hundred rupees or to imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment. [§ 14, 33 of 1969.]

(5) Where any article is seized under subsection (1) from the possession of any person, then—

(2) Any person who—

(a) if no prosecution for the alleged offence is instituted within a period of three months reckoned from the date of the seizure, that article shall be returned to that person forthwith upon the expiration of that period, and

(a) acts in contravention of or fails to comply with any provision of this Act or any regulation made thereunder, or

(b) acts in contravention of or fails to comply with any condition of a licence or permit, [§ 14, 33 of 1969.]

(b) if such prosecution is instituted within that period, that article shall be returned to that person forthwith after the final determination of the prosecution unless it is forfeited to the State under section 28.

shall, in addition to any other penalty which may be imposed under subsection (1), be liable to a fine of one hundred rupees for each day on which the contravention or failure is continued after conviction thereof.

**26A.** The powers of the Controller under this Act may be exercised by a Deputy Controller, Assistant Controller, inspector of explosives, or by any licensing authority within his district.

**28.** The Magistrate may, on the conviction of any person of any offence under this Act, make order that any article in connexion with which the offence was committed or which was used in or in connexion with the commission of the offence, shall be forfeited to the State. Forfeiture of articles.

**27.** (1) Any person who—

(a) acts in contravention of or fails to comply with any provision of this Act or any regulation made thereunder,

**29.** 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. Offences to be cognizable.

(b) acts in contravention of or fails to comply with any condition of a licence or permit,

**30.** (1) This Act shall not apply to explosives which are held by, or on behalf of, the State. Explosives which are held by or on behalf of the State.

(c) fails to comply with any direction given by any officer in the exercise of his powers under this Act, or

(2) The Minister may, by Order published in the Gazette, make provision as to the loading, unloading, transport and storage of the explosives referred to in subsection (1).

(d) resists or obstructs any officer in the exercise of his powers or the performance of his duties under this Act,

(3) Any person who contravenes or fails to comply with any provision of any Order made under subsection (2) 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.

shall be guilty of an offence and shall, on conviction after summary trial before a

[§ 13, 33 of 1969.]

Powers of the Controller. [§ 8, Law 14 of 1978.]

Offences and penalties.

[§ 14, 33 of 1969.]

**PART IV**

**GENERAL**

**34.** For the purpose of the application of the Customs Ordinance in relation to explosives— Application of Customs Ordinance to explosives.

- (a) any explosives the importation of which is prohibited by this Act or by regulation made under this Act shall be deemed to be goods the importation of which is prohibited by enactment, and
- (b) any explosives the importation of which is restricted by this Act or by regulations made under this Act shall be deemed to be goods the importation of which is restricted by enactment.

**35.** The provisions of this Act shall be in addition to and not in derogation of the provisions of the Factories Ordinance. This Act to be in addition, to and not in derogation of Factories Ordinance.

**\*37.** In this Act unless the context otherwise requires— Interpretation.

"article" includes any explosive, document, vehicle, or vessel;

"Assistant Controller" means an Assistant Controller of Explosives;

"Controller" means the Controller of Explosives;

"Deputy Controller" means a Deputy Controller of Explosives. [§ 10, Law 14 of 1978.]

"district" means an administrative district;

"explosives" means gunpowder, nitro glycerine, dynamite, gun-cotton, blasting powder, fulminate of mercury or of other metals, or any other substance or mixture used or manufactured with a view to producing a practical effect by explosion or a pyrotechnic effect, and includes—

- (a) fog signals, fireworks, fuses, rockets, percussion caps, detonators, cartridges, ammunition of every description, and every

**31.** The Controller, every Deputy Controller, every Assistant Controller and every licensing authority shall each be deemed to be a police officer within the meaning of the Code of Criminal Procedure Act, for the purpose of exercising, in relation to any offence under this Act, any power conferred upon a police officer by that Act.

**32.** (1) A notice to any person under this Act shall be given by letter despatched to him by registered post.

(2) A notice given to any person by letter as provided in subsection (1) shall be deemed to have been served on him at the time at which the letter would have been delivered in the ordinary course of post.

**33.** (1) The Minister may make 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 stated or required by this Act 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.

• Section 36 repealing the Explosives Ordinance is omitted.

Controller, Deputy Controllers, Assistant Controllers and licensing authorities deemed to be police officers. [§ 9, Law 14 of 1978.]

Manner of giving notice.

Regulations.

**EXPLOSIVES**

adaptation or preparation of any explosive as hereinbefore defined; and

[§ 15, 33 of 1969.]

(b) any substance which, by reason of its explosive properties, or any substance which, for the reason that it develops explosive properties when in contact with any other substance, is declared by the Minister to be an explosive by Order published in the Gazette;

[§ 2, Law 36 of 1976.]

" Government Analyst" includes the Additional Government Analyst, the Deputy Government Analyst and an Assistant Government Analyst;

" gun " has the same meaning as in the Firearms Ordinance:

" licence " means a licence granted under this Act;

" licensing authority ", in relation to any district, means the Government Agent, any Additional Government Agent, any Assistant Government Agent or any Additional Assistant Government Agent, for that district;

" permit " means a permit granted under this Act;

"prescribed" means prescribed by regulation made under this Act; and

" safety cartridges " means cartridges for small-arms the case of which can be extracted from the small-arms after firing and which are so closed as to prevent any explosion in one cartridge being communicated to the other.

[Sections 14 and 21.]  
[§ 16. 33 of 1969.]

SCHEDULE

*Section of Penal Code*

*Nature of Offence*

114 to 126 (inclusive)  
128 to 133 (inclusive) and 135  
140, 141, 142 and 144 to 155 (inclusive)  
219, 219A 220 and 220A (inclusive)  
226 to 256 (inclusive)  
296,297,298,300, and 301  
315 to 324 (inclusive)  
344 and 347  
367 to 371 (inclusive)  
373 to 378 (inclusive)  
380 to 385 (inclusive)  
387  
389 to 392 (inclusive) but excluding 392A and 392B  
394 to 397 (inclusive)  
400 to 403 (inclusive)  
411 to 426 (inclusive)  
433 to 451 (inclusive)  
  
452 to 466 (inclusive)  
478A to 478D (inclusive)  
486  
101 and 113B (inclusive) and 490

Offences against the State.  
Offences relating to the Army, Navy and Air Force.  
Unlawful assembly and rioting.  
Resistance to lawful apprehension.  
Offences relating to coin and Government stamps.  
Culpable homicide, death by negligence, &c.  
Voluntarily causing hurt by dangerous weapons, &c.  
Criminal Force.  
Theft, theft of cattle, &c.  
Extortion, &c.  
Robbery, &c.  
Criminal misappropriation.  
Criminal breach of trust.  
  
Dishonestly receiving stolen property.  
Cheating.  
Mischief, &c.  
House-trespass, lurking house-trespass, house-breaking, &c.  
Forgery, &c.  
Offences relating to currency notes and bank notes.  
Criminal intimidation.  
Abetting conspiring, attempting, &c., to commit any offence against the sections of the Penal Code enumerated in this Schedule.

CHAPTER 325

EXCHANGE CONTROL

Acts Nos. 24 of 1953, 35 of 1956, 47 of 1957, 17 of 1971.  
 Laws Nos. 14 of 1972, 39 of 1973, 4 of 1977, 13 of 1977.

AN ACT TO MAKE PROVISION CONFERRING POWERS, AND IMPOSING DUTIES AND RESTRICTIONS, IN RELATION TO GOLD, CURRENCY, PAYMENTS, SECURITIES, DEBTS, AND THE IMPORT, EXPORT, TRANSFER AND SETTLEMENT OF PROPERTY, TO AUTHORIZE THE CENTRAL BANK TO ADMINISTER THE PROVISIONS AFORESAID, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

[15th August. 1953.]

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

Administration of Act by Central Bank. **2.** (1) The Central Bank of Ceylon shall, as agent of the Government, be responsible for carrying out the provisions of this Act, and it shall be the duty of the Monetary Board to cause those provisions to be carried out in accordance with such directions as may from time to time be issued in that behalf by the Minister.

(2) The Monetary Board shall establish for the purposes of this Act a Department of Exchange Control of the Central Bank to which the board shall have the power to appoint or assign such officers and servants as the board may consider necessary for the purpose of carrying out the provisions of this Act; every such officer or servant shall, for the purpose of the application of the provisions of the Monetary Law Act relating to officers and servants, be deemed to be employed for the performance of duties under that Act.

Exercise of powers, &c., under the Act. **3.** Wherever by any provision of this Act any power, duty or function is authorized or required to be exercised or performed by the bank, such power, duty or function shall be exercised or performed, subject to the direction and control of the Governor of the bank, by the officer designated as the head of the Department of Exchange Control or on his behalf by any other officer designated as an assistant to him:

Provided, however, that any permission, which by any such provision is authorized

to be granted by the bank, may be granted on behalf of the head of the department by an authorized dealer, if he is for the time being empowered, by directions issued by the head of the department, to grant such permission,

Any directions given by the head of the department under this section may specify the circumstances in which and the conditions and restrictions subject to which an authorized dealer may grant the permission to which the directions relate.

PART I

GOLD AND FOREIGN CURRENCY

**4.** The Minister may authorize any commercial bank to act for the purposes of this Act as an authorized dealer in relation to gold or any foreign currency. Authorized dealers in gold or foreign currency.

**5.** (1) Except with the permission of the Bank— Dealings in gold and foreign currency. [§ 2, Law 39 of 1973.]

(a) no person, other than an authorized dealer, shall in Sri Lanka buy, borrow or accept any gold or foreign currency from, or sell or lend any gold or foreign currency to, or exchange any foreign currency with, any person other than an authorized dealer, and

(b) no person resident in Sri Lanka, other than an authorized dealer, shall, outside Sri Lanka, buy or borrow

any gold or foreign currency from, or sell or lend any gold or foreign currency to, any person other than an authorized dealer:

for the consent that he requires it for a particular purpose, no longer requires that gold or exchange for that purpose, subsection (2) shall thereupon apply to him in relation to that gold or exchange as if the bank had revoked the consent.

Provided that the preceding provisions of this subsection shall not prohibit the sale and purchase at any post office in Sri Lanka, in accordance with such directions as may be given by the bank in regard thereto, of any foreign currency in the form of postal orders or money orders.

(4) A person who acquires any gold or any specified foreign exchange from an authorized dealer shall be treated for the purposes of this section as if the bank had consented to the retention and use by him of that gold or exchange, "and as if any statement made by him in an application for that gold or exchange as to the purpose for which he requires it had been made by him in an application for the consent of the bank to his retention and use thereof.

(2) Except with the previous general or special permission of the bank, no person, whether an authorized dealer or not, shall enter into any transaction which involves the conversion of Sri Lanka currency into foreign currency or foreign currency into Sri Lanka currency at rates of exchange other than the rates for the time being authorized by subsection (3) of section 76 of the Monetary Law Act.

(5) Where a person has become bound under this section to offer or cause to be offered any gold or any specified foreign exchange for sale to an authorized dealer he shall not be deemed to comply with that obligation by any offer made or caused to be made by him, if the offer is an offer to sell at a price exceeding that authorized by the Monetary Board, or without payment of any usual and proper charges of the authorized dealer, or otherwise on any unusual terms.

Surrender of gold and of specified foreign exchange. [§ 2, 17 of 1971.]

6. (1) The foreign exchange to which this section applies is such foreign exchange (hereafter in this Act referred to as the "specified foreign exchange") as may be prescribed.

(2) The bank may require any person in, or resident in, Sri Lanka—

- (a) who owns or holds any specified foreign exchange to offer it or cause it to be offered for sale to an authorized dealer at a price determined by the Monetary Board, or
- (b) who is entitled to assign any right to receive any specified foreign exchange to transfer such right to the Deputy Secretary to the Treasury on payment of such consideration as the Monetary Board may fix,

(6) Where a person has become bound under this section to offer or cause to be offered any gold or any specified foreign exchange for sale to an authorized dealer and has not complied with that obligation, the Secretary to the Treasury may direct that that gold or exchange shall vest in the Deputy Secretary to the Treasury, and where the Secretary to the Treasury so directs, it shall vest in the Deputy Secretary to the Treasury free from any mortgage, pledge, or charge, and the Deputy Secretary to the Treasury shall deal with or dispose of it in such manner as the Minister may direct, but the Deputy Secretary to the Treasury or any officer authorized in that behalf by such Deputy Secretary shall pay to that person such sum as he would have received for that gold or exchange if he had sold it to an authorized dealer in pursuance of an offer made under this section at the time when the vesting occurred. Any money required for any payment under this subsection is hereby charged upon the Consolidated Fund.

unless the bank consents to his retention and use of such foreign exchange or he disposes of such foreign exchange to any person with the permission of the bank.

(3) If a person who has obtained the consent of the bank to his retention and use of any gold or any specified foreign exchange and has stated in an application

[§ 2, 17 of 1971.]

(7) In any proceedings in respect of a failure to comply with the provisions of this section, it shall be presumed, until the contrary is proved, that the gold or exchange in question has not been offered for sale to an authorized dealer.

(b) shall not dispose of such assets or part thereof in any manner whatsoever except in accordance with such directions as may be given to him by the bank.

[ 2.17 of 1971.]

Possession of foreign currency. [§3,17 of 1971.]

6A. Except with the permission of the bank, no person shall have in his possession any foreign currency.

PART II

PAYMENTS

PART IA

CONTROL OF FOREIGN ASSETS

Accounts in foreign banks. [fi 4. 17 of 1971.]

6AA. (1) No person in, or resident in, Sri Lanka shall, except with the permission of the bank,—

- (a) open an account with any bank or institution doing any kind of banking business outside Sri Lanka (hereinafter referred to as a "foreign bank ");
- (b) continue to maintain, or operate on, an account which has already been opened in any foreign bank; or
- (c) close an account with any foreign bank.

(2) Where an account maintained by a person in, or resident in, Sri Lanka with any foreign bank is closed, such person shall not dispose of the funds to his credit at such foreign bank at the time of closing of such account, except in accordance with such directions as may from time to time be given to him by the Central Bank.

Foreign assets. [§4, 17 of 1971.]

6AB. Every person in, or resident in, Sri Lanka who, on the date of commencement of this Act, holds, or who, after such date, acquires by way of purchase, gift, testamentary disposition or otherwise, any foreign assets—

- (a) shall, within one month of the commencement of this Act or the acquisition of the assets, as the case may be, render to the bank a return in such manner and giving such particulars with respect to the assets as may be prescribed ; and

7. Except with the permission of the bank no person shall in Sri Lanka—

Payments in Sri Lanka. [§ 3, Law 39 of 1973.]

- (a) make any payment to or for the credit of a person resident outside Sri Lanka, or
- (b) make any payment to or for the credit of a person resident in Sri Lanka by order or on behalf of a person resident outside Sri Lanka, or
- (c) place or hold any sum to the credit of any person resident outside Sri Lanka;

Provided that where a person resident outside Sri Lanka has paid a sum in or towards the satisfaction of a debt due from him, paragraph (c) of this section shall not prohibit the acknowledgment or recording of the payment.

8. (1) Except with the permission of the bank, no person resident in Sri Lanka shall, subject to the provisions of this section, make any payment outside Sri Lanka to or for the credit of a person resident outside Sri Lanka.

Payments outside Sri Lanka.

(2) Nothing in this section shall prohibit the doing of anything otherwise lawful by any person with any foreign currency obtained by him in accordance with the provisions of Part I of this Act or retained by him with the consent of the bank.

9. (1) Except with the permission of the bank no person shall in Sri Lanka, and no person resident in Sri Lanka shall outside Sri Lanka, make any payment to or for the credit of a person resident in Sri Lanka as consideration for or in association with—

Compensation deals-

- (a) the receipt by any person of a payment made outside Sri Lanka, or



the acquisition by any person of property which is outside Sri Lanka, or

- (b) the transfer to any person, or the creation in favour of any person, of a right (whether present or future, and whether vested or contingent) to receive a payment outside Sri Lanka or to acquire property which is outside Sri Lanka.

(2) Nothing in this section shall prohibit the making of any payment in accordance with the terms of a permission or consent granted under this Act.

**PART III**

**SECURITIES**

Issue of securities.

**10.** (1) Except with the permission of the bank, no person shall in Sri Lanka issue any security or, whether in Sri Lanka or elsewhere, issue any security which is registered or to be registered in Sri Lanka, unless the following requirements are fulfilled :—

- (a) neither the person to whom the security is to be issued nor the person, if any, for whom he is to be a nominee is resident outside Sri Lanka, and
- (b) the prescribed evidence is produced to the person issuing the security as to the residence of the person to whom it is to be issued and that of the person, if any, for whom he is to be a nominee.

(2) The subscription of the memorandum of association of a company to be formed under the Companies Ordinance by a person resident outside Sri Lanka, or by a nominee for another person so resident, shall, unless he subscribes the memorandum with the permission of the bank, be invalid in so far as it would on registration of the memorandum have the effect of making him a member of the company, so, however, that this subsection shall not render invalid the incorporation of the company, and if by virtue of this subsection the number of the subscribers of the memorandum who on its

registration become members of the company is less than the minimum required to subscribe the memorandum, the provisions of the said Ordinance relating to the carrying on of business of a company the number of whose members is reduced below the legal minimum shall apply to the company as if the number of its members had been so reduced.

**11.** (1) No person shall, except with permission granted by the bank, transfer any security, either on his own behalf or on behalf of any other person, unless—

Transfer of securities and coupons.

- (a) the holder of the security and, if the holder is a nominee, the person for whom he is acting as nominee, are resident in Sri Lanka; and
- (b) the transferor has produced to the person to whom the security is to be transferred or his agent such evidence of the facts aforesaid as may be prescribed;

and no person shall, except with such permission as aforesaid, acquire any security, either on his own behalf or on behalf of any other person, unless such evidence as aforesaid has been produced to him or to his agent.

(2) No person shall, except with permission granted by the bank—

- (a) transfer any registered security, either on his own behalf or on behalf of any other person, to any person resident outside Sri Lanka or to any person acting as the nominee of any person so resident, or
- (b) transfer any bearer security, either on his own behalf or on behalf of any other person, unless the bank is satisfied that the person to whom the security is to be transferred and, if that person is a nominee, the person for whom he is to act as nominee, are resident in Sri Lanka.

(3) Except with the permission of the bank, no coupon shall be transferred—

- (a) in Sri Lanka, if either the transferee or the person, if any, for whom he is a nominee is resident outside Sri Lanka;

(b) outside Sri Lanka, if either the transferor or the transferee, or the person, if any, for whom the transferor or the transferee is or is to be a nominee, is resident in Sri Lanka.

Issue of bearer certificates and coupons.

12. Except with the permission of the bank, no person shall, in Sri Lanka, and no person resident in Sri Lanka shall, outside Sri Lanka, issue any bearer certificate or coupon or so alter any document that it becomes a bearer certificate or coupon.

Substitution of securities and certificates outside Sri Lanka.

13. Except with the permission of the bank, no person in or resident in Sri Lanka shall do any act with intent to secure—

- (a) that a security which is—
  - (i) registered in Sri Lanka, or
  - (ii) transferable by means of a bearer certificate in Sri Lanka, becomes, or is replaced by, a security registered outside Sri Lanka or a security transferable by means of a bearer certificate outside Sri Lanka, or
- (b) that, in substitution for or in addition to any such certificate of title to the first-mentioned security as is in, or is or has been lost or destroyed in, Sri Lanka, a certificate of title to any other security is issued outside Sri Lanka.

Payment of capital moneys outside Sri Lanka.

14. Except with the permission of the bank, no person resident in Sri Lanka shall do any act with intent to secure that capital moneys payable on a security registered in Sri Lanka are paid outside Sri Lanka, or that, where the certificate of title to a security is in Sri Lanka, capital moneys payable on the security are paid outside Sri Lanka without production of the certificate to the person making the payment.

Duties of persons keeping registers.

15. Except with the permission of the bank, no person concerned with the keeping of any register in Sri Lanka shall—

- (a) enter in the register the name of any person in relation to any security unless there has been produced to

him the prescribed evidence that the entry does not form part of a transaction which involves the doing of anything prohibited by this Act, or

- (b) enter in the register, in respect of any security, an address outside Sri Lanka, except for the purpose of any transaction for which the permission of the bank has been granted with the knowledge that it involves the entry of that address, or
- (c) do any such act in relation to the register as recognizes or gives effect to any act appearing to him to have been done with the intent mentioned in section 13 or section 14, whether done by a person in or resident in Sri Lanka or not.

16. (1) Where the holder of a security is a nominee, then, except with the permission of the bank, neither he, if he is resident in Sri Lanka, nor any person resident in Sri Lanka through whose agency the exercise of all or any of the holder's rights in respect of the security is controlled, shall—

Additional provisions as to nominee holdings.

- (a) do any act whereby he recognizes or gives effect to the substitution of another person as the person from whom he directly receives his instructions unless both the persons previously instructing him and the person substituted for that person were, immediately before the substitution, resident in Sri Lanka and not elsewhere, or
- (b) do any act whereby he ceases to be a person bound to give effect to the instructions of another person in relation to the security, unless the person who theretofore instructed him is resident in Sri Lanka and not elsewhere.

(2) Where the holder of a security is not a nominee and is resident in Sri Lanka, then, except with the permission of the bank, he shall not do any act whereby he becomes the nominee of another person in respect of the security, unless that other person is resident in Sri Lanka and not elsewhere.

(3) Where the holder of a security transferable by means of a bearer certificate is resident in Sri Lanka and is a nominee for a person resident outside Sri Lanka, then, except with the permission of the bank, he shall not deliver the certificate into the possession of any person, whether the delivery amounts to a transfer or not.

17. (I) This section shall apply to prescribed securities on which any capital money, dividend or interest is payable in any foreign currency or as respects which the holder has an option to require payment of any capital money, dividend or interest thereon in any foreign currency.

(2) Except with the permission of the Minister, no person shall, in Sri Lanka, and no person resident in Sri Lanka shall, outside Sri Lanka, acquire, hold or transfer any security to which this section applies or do anything which affects his rights or powers in relation to any such security.

(3) The bank may in writing direct any person resident in Sri Lanka by whom or to whose order a security to which this section applies is held in or outside Sri Lanka to render a return to the bank, in such manner and within such period as may be specified in the direction, giving such particulars with respect to that security as may be so specified.

(4) The Minister may direct any person resident in Sri Lanka by whom or to whose order a security to which this section applies is held in or outside Sri Lanka—

(a) to sell or procure the sale of the security, and thereafter to offer or cause to be offered the net foreign exchange proceeds of sale to the bank, directly or through an authorized dealer; or

(b) to transfer the security to the Deputy Secretary to the Treasury on behalf of the Government at a price which in the opinion of the Deputy Secretary to the Treasury is not less than the market value of the security on the date of the giving of the direction.

Any direction under this subsection may be given either generally, with respect to

specified securities and the holders thereof by notice published in the Gazette, or specially to any holder by notice in writing.

18. (1) The title of any person to a security for which he has given value on a transfer thereof, and the title of all persons claiming through or under him, shall, notwithstanding that the transfer, or any previous transfer, or the issue of the security, was by reason of the residence of any person concerned other than the first-mentioned person prohibited by the provisions of this Act relating to the transfer or issue of securities, be valid unless the first-mentioned person had notice of the facts by reason of which it was prohibited.

(2) Without prejudice to the provisions of subsection (1), the bank may issue a certificate declaring in relation to a security, that any such acts done before the issue of the certificate as purport to effect the issue or transfer of the security, being acts which were prohibited by this Act, are to be, and are always to have been, as valid as if they had been done with the permission of the bank, and the said acts shall have effect accordingly.

(3) Nothing in this section shall affect the liability of any person to prosecution for any offence against this Act.

19. (1) This Part of this Act shall, with any modification which may be prescribed in relation to any document mentioned in subsection (2), apply as if the document created, and were the certificate of title to, a security (hereafter in this Act referred to as a "secondary security").

(2) The documents referred to in subsection (1) are any letter of allotment which may be renounced, any letter of rights, any warrant conferring an option to acquire a security, any deposit certificate in respect of securities, and such other documents conferring, or containing evidence of, rights as may be prescribed.

20. (1) In this Part of this Act—  
"registered" includes inscribed;

"registered in Sri Lanka" and "registered outside Sri Lanka" mean

Validation of certain transfers.

Application of Part III to secondary securities.

Interpretation of Part III.

Special provisions as to dealings in prescribed securities- [§ 5, 17 of 1971.]

[§ 5, 17 of 1971.]

respectively, registered in a register in, and registered in a register outside, Sri Lanka;

"a register" includes any book, file or index in which securities are registered; and

\* holder "—

(a) in relation to a security transferable by means of a bearer certificate or to a coupon, includes the person having physical custody of the certificate or coupon:

Provided that where the certificate or coupon is deposited with any person in a locked or sealed receptacle from which he is not entitled to remove it without the authority of some other person, that other person shall be deemed for the purposes of this provision to have the physical custody of the certificate or coupon ; and

(b) in relation to a security which is registered in the name of a deceased person, or of any person who, by reason of insolvency, unsoundness of mind or any other disability, is incapable of transferring the security, means the executor of the last will or the administrator of the estate of the deceased, the assignee of the insolvent's estate, or any other person entitled to transfer the security.

(2) For the purposes of any provision of this Part of this Act prohibiting the transfer of securities, a person shall be deemed to transfer a security if he executes any instrument of transfer thereof, whether effective or not, and shall be deemed to transfer it at the place where he executes the instrument.

(3) The holder of a security or coupon shall be deemed for the purposes of this Part of this Act to be a nominee in respect

of that security or coupon if he is not entitled to exercise any right relating to that security or coupon except in accordance with instructions given by some other person, and references in this Part of this Act to the person for whom the holder of a security or coupon is a nominee shall be construed as references to the person who is entitled to give instructions, either directly or through the agency of one or more persons, as to the exercise of any right relating to the security or coupon and is not in so doing himself under a duty to comply with instructions given by some other person:

Provided that—

(a) a person shall not, by reason only that he has a controlling interest in a body corporate, be deemed for the purposes of this subsection to be entitled to give instructions to that body as to the exercise of any right relating to any security or coupon of which that body is the holder, and

(b) a person shall not be deemed to hold a security or coupon as a nominee by reason only that he holds it as trustee if he is entitled to transfer the security or coupon without permission from any other person.

**PART IV**

IMPORT AND EXPORT

**21.** (1) No person shall, except with the permission of the bank, import into Sri Lanka—

(a) any notes of a class which are or have at any time been legal tender in Sri Lanka; or

(b) any such other notes as may be prescribed being notes issued by a bank or notes of a class which are or have at any time been legal tender in any territory; or

(c) any gold.

(2) The bringing or sending into any port or other place in Sri Lanka of any gold

intended to be taken out of Sri Lanka without being removed from the vessel or aircraft in which that gold is being carried shall, for the purpose of this section, be deemed to be the importation of that gold.

(3) In this section, " note " includes part of a note.

Restriction on export,

**22.** (1) No person shall, except with the permission of the bank, export from Sri Lanka—

- (a) any Sri Lanka currency;
- (b) any foreign currency;
- (c) any Treasury Bills ;
- (d) any savings certificate expressed in Sri Lanka or any foreign currency ;
- (e) any gold;
- (f) any of the following documents (including any such document which has been cancelled):—
  - (i) any certificate of title to a security and any coupon;
  - (ii) any policy of assurance;
  - (iii) any document certifying the destruction, loss or cancellation of any of the documents aforesaid; or
- (g) any such article exported on the person of a traveller or in a traveller's baggage as may be prescribed.

(2) In subsection (1)—

" note " includes part of a note;

" security " includes a secondary security; and

" coupon" shall be construed in accordance with the meaning of \* security ".

[§ 4, Law 39 of 1973.]

(3) The Minister may by Order published in the Gazette provide that no goods shall,

except with the permission of the bank, be exported from Sri Lanka to any destination specified in the Order.

(4) In granting permission under subsection (3) in respect of the exportation of goods for the purposes of sale, the bank shall satisfy itself—

- (a) that payment for the goods has been made to a person resident in Sri Lanka by such means and in such manner as may be prescribed in relation to goods of that class or description exported to the destination, or is to be so made not later than six months after the date of exportation; and
- (b) that the amount of the payment that has been made or is to be made represents such a return for the goods as is in all the circumstances satisfactory in the national interest:

Provided that the bank may direct that, in cases to which the direction applies, paragraph (a) of this subsection shall have effect as if for the reference to six months there were substituted a reference to such longer or shorter period as may be specified in the direction, or as if the words " or is to be so made not later than six months after the date of exportation " were omitted.

(5) Where, on the authority of permission granted under subsection (3), a person is about to export goods from Sri Lanka and the bank has reason to suspect that any declaration made by that person, in his application for the permission, as to the ultimate destination of the goods is untrue in any material particular, the Principal Collector of Customs shall, on the advice of the bank, detain the goods until the bank is satisfied as to the truth of that declaration and, if the bank is not so satisfied, the goods shall be forfeited and shall be dealt with or disposed of in such manner as the Minister may direct.

(6) Where, at any time after the grant of permission under subsection (3), the bank has reason to believe that the amount of the payment that has been made or is to be made for the goods to which the permission relates is not in accord with paragraph (b)

of subsection (4), the bank may direct the person holding the shipping documents relating to the goods to retain possession thereof until such time as the person to whom the permission has been granted has made arrangements to receive as payment for the goods an amount which, in the opinion of the bank, accords with the aforesaid paragraph (b).

\*<sup>(8)</sup> Any reference in this section to the destination of any goods includes a reference to the ultimate destination thereof.

(9) The preceding provisions of this section shall be in addition to and not in substitution or derogation of the provisions of any other written law prohibiting, restricting or regulating the exportation of goods from Sri Lanka.

Application of Custom? Ordinance and Post Office Ordinance.

**23.** (1) The Customs Ordinance shall apply in relation to anything the importation or exportation of which into or from Sri Lanka is restricted by any of the provisions of this Part of this Act in like manner as that Ordinance applies in relation to articles the importation or exportation of which into or from Sri Lanka is restricted by any enactment; and section 24 of the Post Office Ordinance shall, in relation to any such things as aforesaid, have effect as though, for the words "received from beyond seas" and the word "imported" occurring in that section, there were substituted respectively the words "addressed to or received from any place outside Sri Lanka" and the words "imported or exported".

(2) Where anything in relation to which the Customs Ordinance applies by virtue of subsection (1) is forfeited under that Ordinance, such thing shall, notwithstanding any contrary provision in that Ordinance, be dealt with or disposed of in such manner as the Minister may direct.

(3) The importer or exporter of any such forfeited thing as is referred to in subsection (2) may, in accordance with such directions as may be given by the Minister either generally or specially in the circumstances of any particular case, be paid in Sri Lanka currency an amount not exceeding the value in Sri Lanka currency of that thing.

• Subsection (7) is repealed by Law No. 39 of 1973.

(4) Payment to any importer or exporter under subsection (3) shall be made by the Deputy Secretary to the Treasury or by any officer authorized in that behalf by such Deputy Secretary; and any money required for any such payment is hereby charged upon the Consolidated Fund.

(5) In this section, "importer" and "exporter", with reference to any postal article, mean respectively the addressee and the sender of that article.

**PART V**

MISCELLANEOUS

**24.** (1) Except with the permission of the bank no person who has a right (whether present or future and whether vested or contingent) to receive any foreign currency, or to receive from a person resident outside Sri Lanka a payment in rupees, shall do, or refrain from doing, any act with intent to secure—

- (a) that the receipt by him of the whole or part of that currency or, as the case may be, of that payment in rupees is delayed, or
- (b) that the currency or payment ceases, in whole or in part, to be receivable by him;

Provided that nothing in this subsection shall, unless the bank otherwise directs, impose on any person any obligation, in relation to any debt arising in the carrying on of any trade or business, to procure the payment thereof at an earlier time than is customary in the course of that trade or business.

(2) Where a person has contravened the provisions of subsection (1) in relation to any foreign currency or any payment in rupees—

- (a) the bank may give to him or to any other person in or resident in Sri Lanka who appears to the bank to be in a position to give effect thereto such directions as appear to the bank to be expedient for the

purpose of obtaining or expediting the receipt of the currency or payment in question, and,

(b) it appears to the bank that the goods cannot be sold or imported as indicated by the statement, declaration, condition or application,

(b) without prejudice to the preceding provisions of this subsection, the Secretary to the Treasury may direct that there shall be assigned to the Deputy Secretary to the Treasury the right to receive the currency or payment or enforce any security for the receipt thereof.

the Secretary to the Treasury may give to any person who appears to him to be in a position to give effect thereto such directions as appear to him to be expedient as to the manner in which the goods are to be dealt with.

Duty not to delay sale or importation of goods.

25. (1) Where any statement or declaration has been made under any provision of this Act that any goods are to be sold outside Sri Lanka, no person who is entitled to sell or procure the sale of those goods shall, except with the permission of the bank, do or refrain from doing any act with intent to secure—

(4) Without prejudice to the provisions of subsection (3), the Secretary to the Treasury may in any case to which those provisions apply give directions that the goods shall be assigned to the Deputy Secretary to the Treasury.

(a) that such sale is delayed to an extent which is unreasonable having regard to the ordinary course of trade, or

26. (1) Where a person—

Property obtained by infringement of Act

(a) has made any payment which is prohibited by this Act, or

(b) that, on such sale, any payment made for the goods is not made in the manner indicated by the statement or declaration.

(b) being bound under this Act to offer or cause to be offered by specified foreign exchange to an authorized dealer, has otherwise disposed of that exchange, [§6,17 of 1971]

(2) Where any permission or consent has been granted under this Act subject to a condition providing that, or on the faith of an application stating an intention that, any goods should be imported into Sri Lanka, no person who is entitled to procure the importation of those goods shall do, or refrain from doing, any act with intent to secure that the importation thereof is delayed to an extent which is unreasonable having regard to the ordinary course of trade.

the Secretary to the Treasury may direct him to sell or procure the sale of any property which he is entitled to sell or of which he is entitled to procure the sale, being property which represents, whether directly or indirectly, that payment or that specified foreign exchange, as the case may be, and may by the same or a subsequent direction specify the manner in which, the persons to whom, and the terms on which the property is to be sold. [§6,17 of 1971]

(3) Where in any such case as is specified in subsection (1) or subsection (2)—

(2) Without prejudice to the provisions of subsection (1), the Secretary to the Treasury may in any case to which those provisions apply give directions that the property shall be assigned to the Deputy Secretary to the Treasury.

(a) the goods have not been sold or imported as indicated by the statement, declaration, condition or application within the time thereby indicated or, if no time is thereby indicated, a reasonable time or (in either case) within such further time as may be allowed by the bank, or

27. (1) Where, under the preceding provisions of this Part of this Act, the Secretary to the Treasury has power to give directions that any right to receive any currency or any payment in rupees or to enforce any security for the receipt thereof, any goods, or any other property shall be Provisions supplemental to preceding provisions of part V

assigned to the Deputy Secretary to the Treasury, the Secretary to the Treasury shall also have power to direct that the right, goods, or property shall vest in the Deputy Secretary to the Treasury, and in any such case it or they shall vest in the Deputy Secretary to the Treasury free from any mortgage, pledge, or charge, and the Deputy Secretary to the Treasury shall deal with or dispose of it or them in such manner as the Minister may direct.

(2) Where, in pursuance of directions under the preceding provisions of this Part of this Act, any right, goods, or property is or are assigned to the Deputy Secretary to the Treasury, or any right, goods, or property vests or vest in the Deputy Secretary to the Treasury in pursuance of directions given under subsection (1), the Deputy Secretary to the Treasury or any officer authorized in that behalf by such Deputy Secretary shall pay the net sum recovered by the Deputy Secretary to the Treasury in respect of the right, goods, or property to the person making the assignment or, in the case of any right, goods, or property vested in the Deputy Secretary to the Treasury under subsection (1), to the person, who, but for the directions, would be entitled to the right, goods or property,

Transfer of policies of assurance.

**28.** (1) Except with the permission of the bank, no person resident in Sri Lanka shall transfer to a person who is resident outside Sri Lanka or is a nominee for a person resident outside Sri Lanka, any right to the sums assured by any policy of assurance, so, however, that where the person liable for the sums so assured makes any payment thereof to a person resident in Sri Lanka and not elsewhere, or makes with the permission of the bank, any payment thereof to any other person—

- (a) he shall not be bound to inquire as to the residence of any person other than the person to whom, and (if it is not the same person) the person to whose order, the payment is made; and
- (b) the payment shall, to the extent of the sums paid, discharge him from his liability under the policy, notwithstanding that the payment is

made to or to the order of a person who was not entitled thereto otherwise than by virtue of a transfer prohibited by this subsection.

(2) Subsections (2) and (3) of section 18 shall apply in relation to any transfer prohibited by this section as they apply in relation to a transfer prohibited by this Act of a security,

(3) In this section, "nominee", in relation to any policy of assurance, has the same meaning as is assigned to it by subsection (3) of section 20 in relation to a security.

**29.** (I) Except with the permission of Settlements, the bank, no person resident in Sri Lanka shall—

- (a) settle, otherwise than by will, any property upon any trust under which an interest in that property is conferred on a person who, at the time of the settlement, is resident outside Sri Lanka, or
- (b) exercise, otherwise than by will, any power of appointment (whether created by will or otherwise) in respect of any property in favour of a person who, at the time of the exercise of such power, is resident outside Sri Lanka.

(2) A settlement or an exercise of a power of appointment shall not be invalid by reason that it is prohibited by this section, except so far as it purports to confer an interest in any property on any person who, at the time of the settlement or the exercise of the power of appointment, is resident outside Sri Lanka.

(3) Subsections (2) and (3) of section 18 shall apply in relation to a settlement or the exercise of a power of appointment prohibited by this section as they apply in relation to a transfer prohibited by this Act of a security.

(4) For the purposes of this section—

- (a) any reference to settling property includes a reference to the making



of any disposition, covenant, agreement or arrangement whereby the property becomes subject to a trust, or (in the case of a resettlement) to a different trust;

(b) a person shall be deemed to have an interest in property if he has any beneficial interest therein, whether present or future and whether vested or contingent, or falls within a limited class of persons in whose favour a discretion or power in respect of the property is exercisable; and

(c) the expression "will" includes any testamentary disposition.

Tourist services, shipping agencies and airline agencies. [§ 5, Law 39 of 1973.]

**29A.** No person shall operate or maintain any tourist, airline or shipping service or carry on business as shipping agent or airline agent except in accordance with such conditions and requirements as may be imposed from time to time by the bank.

Prescribed services to be performed in accordance with conditions and requirements imposed by the bank. [§ 5, Law 39 of 1973.]

**29B.** No person in, or resident in, Sri Lanka shall perform any prescribed service for a person resident outside Sri Lanka except in accordance with such conditions and requirements as may be imposed by the bank by Notification published in the Gazette.

Restriction of appointment of certain companies and firms as agents or technical advisers in Sri Lanka. [§ 5, Law 39 of 1973.]

**29C.** Notwithstanding anything contained in any other provision of this Act, a company (other than a banking company) which is not incorporated under any law in force in Sri Lanka or which is controlled directly or indirectly by any person or persons resident outside Sri Lanka, or any branch or office of any such company in Sri Lanka, or a firm consisting wholly or in part of persons resident outside Sri Lanka, shall not accept appointment as—

(a) agent in Sri Lanka of any person, company or firm in the trading or commercial transactions thereof; or

(b) technical or management adviser in Sri Lanka of any person, company or firm,

except with the general or special permission of the bank; and where such appointment is accepted without such permission, it shall be void.

**30.** (1) Where there is served on any person resident in Sri Lanka a notice in writing that the bank wishes any such requirements as are hereinafter mentioned to be complied with by any foreign company, and that person can by doing or refraining from doing any act—

Certain provisions relating to foreign companies. [§ 6, Law 39 of 1973.]

(a) cause the foreign company to comply with any of the requirements; or

(b) remove any obstacle to the foreign company complying with any of the requirements; or

(c) render it in any respect more probable that the foreign company will comply with any of the requirements,

then, except so far as permission to the contrary may be given by the bank, that person shall do or, as the case may be, refrain from doing that act.

(2) The requirements with respect to which a notice under subsection (1) may be given are as follows, that is to say, the foreign company shall—

(a) furnish to the bank such particulars relating to the assets and business of such company as may be mentioned in the notice;

(b) sell or procure the sale to an authorized dealer of any foreign exchange mentioned in the notice, being foreign exchange which it is entitled to sell or to which it is entitled to procure the sale ;

(c) declare and pay such dividends as may be mentioned in the notice ;

(d) realize any of its assets mentioned in the notice in such manner as may be so mentioned;

(e) refrain from selling, or transferring, or doing anything which affects its rights or powers in relation to, any such instrument or securities as may be mentioned in the notice.

(3) Except with the general or special permission of the bank, no person resident in Sri Lanka shall do any act whereby any business which is controlled by persons resident in Sri Lanka ceases to be so controlled.

(4) Notwithstanding anything contained in any other law, no transfer of any interest in any business in Sri Lanka made by a person resident outside Sri Lanka to any person also resident outside Sri Lanka shall be valid unless such transfer is confirmed by the bank on an application made to it for such confirmation by the transferor or the transferee. The preceding provisions of this subsection shall not apply to the transfer of any share in a company.

(5) Except with the general or special permission of the bank, no person resident in Sri Lanka shall transfer any interest in any business in Sri Lanka, or create any interest in any such business, to or in favour of a citizen of a foreign State.

(6) Except with the general or special permission of the bank, no person resident in Sri Lanka shall give a guarantee in respect of any debt or any other obligation or liability of a person resident outside Sri Lanka.

(7) Except with the general or special permission of the bank, no person resident in Sri Lanka shall lend any money either to any firm or company (other than a banking company) which is controlled directly or indirectly by persons resident outside Sri Lanka.

(8) In this section, "foreign company" means a company not incorporated under any law in force in Sri Lanka and in the case of which any of the following conditions is fulfilled :—

(a) that the company is by any -means controlled (directly or indirectly) by any person or persons resident in Sri Lanka; or

(b) that more than half of the sums which, on a liquidation thereof, would be receivable by holders of

share or loan capital, would be receivable directly or indirectly by, or for the benefit of, persons resident in Sri Lanka; or

(c) that more than one-half of the assets which, on a liquidation thereof, would be available for distribution after the payment of creditors would be receivable directly or indirectly by, or for the benefit of, any person or persons resident in Sri Lanka; or

(d) that more than one-half—

(i) of the interest payable on its loans and loan capital, if any, or

(ii) of the dividends payable on its preference share capital, if any, or

(iii) of the dividends payable on its share capital, if any, not being preference share capital,

is receivable directly or indirectly by, or for the benefit of, any person or persons resident in Sri Lanka.

For the purposes of this subsection, where the identity of the person or persons by whom or for whose benefit, any sum, assets, interest or dividends are directly or indirectly receivable depends on the exercise by any person resident in Sri Lanka of a power vested in him in that behalf, the sum, assets, interest or dividends shall be deemed to be receivable directly or indirectly by, or for the benefit of, any person or persons resident in Sri Lanka.

**PART VI**

SUPPLEMENTAL

**\*31.** (1) Where any person applies for the permission of the bank for the making of a payment, or the placing of any sum, to the credit of any person resident outside Sri Lanka, the bank may direct that the sum payable or to be credited shall be paid or credited to a blocked account only. Where

Blocked accounts- [§ 7, Law 39 of 1973.]

•PART V A (containing sections 30A to 30H) is repealed by Law No- 13 of 1977.

such direction is given by the bank such person shall pay or credit such sum to a blocked account.

notwithstanding the change, and the provisions of this section shall apply accordingly.

[§ 7. Law 39 of 1973.] (2) Where the bank directs that a payment shall be made to a blocked account only,—

(a) the manner in which the payment may be made shall be either—

(i) to the banker, with a direction that the payment shall be credited to a blocked account of the person to whose credit the payment is made, which direction may, in the case of a payment by means of a cheque or warrant, be made by marking the cheque or warrant with the words "blocked account of" (naming that person) or words to the same effect, or

(ii) by a crossed cheque or warrant drawn in favour of that person, marked with the words "payable only to blocked account of payee" or words to the same effect; and

(b) the sum collected shall be credited by the banker to a blocked account of that person.

\***(4)** Any sum standing to the credit of a blocked account shall not be dealt with except with permission of the bank.

(5) Where a person in whose name a blocked account is standing is declared an insolvent under the law of Sri Lanka or dies, the banker may, notwithstanding anything in subsection (4), transfer the account to the name of the assignee of the insolvent's estate or the executor of the last will, or the administrator of the estate, of the deceased, but, save as aforesaid, no change shall, except with the permission of the bank, be made in the name in which the account stands; and where any such change is made (whether or not the permission of the bank is necessary therefor) the account shall remain a blocked account

(6) Where—

(a) a sum is due from any person to any other person but the bank directs that it shall be paid or credited to a blocked account only, and

(b) the person to whom the sum is due nominates such an account to the person from whom the sum is due,

the last-mentioned person shall be under a duty to the person to whom the sum is due to cause the sum to be paid or credited to that blocked account, and the crediting of any sum to a blocked account in pursuance of a direction of the bank shall, to the extent of the sum credited, be a good discharge to the person from whom the sum is due:

Provided that, in the case of a sum due under a contract, the preceding provisions of this subsection shall not apply in so far as the application of those provisions is inconsistent with the intention of the parties to that contract.

(7) In this section—

"blocked account" means an account opened as a blocked account at an office or branch in Sri Lanka in favour of any person by a banker authorized by the bank to open blocked accounts, and

"banker", in relation to any person, means a banker who opens a blocked account in favour of that person.

**32.** (1) The Minister may by Order published in the Gazette provide that, for such of the purposes of this Act as may be specified in the Order—

Branches.

(a) any transaction with or by a branch of any business, whether carried on by a body corporate or otherwise, shall be treated in all respects as if the branch were a body corporate resident where the branch is situated, and

• Subsection (3) is repealed and proviso to subsection (4) is omitted by Law No. 39 of 1973.

(b) the making of any book entry or other statement recording a debit against a branch of any business in favour of any other branch of that business, shall be treated as a payment to that other branch, and

(c) any property held by or on behalf of any person carrying on any business shall be deemed to be held by such of the branches of that business as may be determined in accordance with the Order;

and any such Order which makes, for any of the purpose of Part III of this Act, such provision as is mentioned in paragraph (c) of this subsection may contain provisions declaring the circumstances in which a branch is to be treated as nominee for any other branch.

(2) Any reference in subsection (1) to a branch of a business shall be deemed to include a reference to the head office of that business.

(3) Subsections (1) and (2) shall apply in relation to any body of persons (whether corporate or unincorporate) carrying on any activity, whether for the purpose of profit or not, as they apply in relation to a business.

Contracts.

**33.** (1) It shall be an implied condition in any contract that, where, by virtue of this Act, the permission or consent of the bank is at the time of the contract required for the performance of any term thereof, that term shall not be performed except in so far as the permission or consent is given or is not required:

Provided that the preceding provisions of this subsection shall not apply to that term in so far as the application of those provisions to that term is inconsistent with the intention of the parties to that contract, whether by reason of their having contemplated the performance of that term in despite of the provisions of this Act or for any other reason,

(2) Notwithstanding anything in the Bills of Exchange Ordinance, neither the provisions of this Act nor any condition, whether express or to be implied having

regard to those provisions, that any payment shall not be made without the permission of the bank under this Act, shall be deemed to prevent any instrument being a bill of exchange or promissory note.

**34.** Where any provision of any other written law imposes an obligation in respect of the doing of any act and the permission or consent of the bank is, by virtue of this Act, required for the discharge of the obligation, it shall be an implied condition of the obligation that it shall not be discharged except in so far as the permission or consent is given or is not required.

Obligations under other written laws.

**35.** (1) The provisions of Part II of this Act shall apply to sums required to be paid by any judgment or order of any court or by any award as they apply in relation to other sums, and it shall be implied in any judgment or order of any court in Sri Lanka, and in any award given under the law of Sri Lanka, that any sum required to be paid by the judgment, order or award (whether as a debt, as damages or otherwise) to which those provisions apply shall not be paid except with the permission of the bank.

Legal proceedings, &c.

(2) Nothing in this Act shall be construed as preventing the payment by any person of any sum into any court in Sri Lanka, but the provisions of Part II of this Act shall apply to the payment of any sum out of court, whether under an order of the court or otherwise, to or for the credit of any person resident outside Sri Lanka.

(3) In any insolvency proceedings, winding up of a company, or administration of the estate of a deceased person, carried on under the law of Sri Lanka, a claim for a sum not payable without the permission of the bank shall, notwithstanding that the permission has not been given or has been revoked, be admitted to proof as if the permission had been given and had not been revoked:

Provided that nothing in the preceding provisions of this subsection shall be construed as affecting the application of the provisions of Part II of this Act to payments by the assignee of the insolvent's estate, or

by the liquidator, or by the executor of the last will, or administrator of the estate, of the deceased, or by any other person in such insolvency proceedings, or winding up, or administration.

(4) The provisions of this Act restricting the making of settlements shall not apply to any deed of arrangement made for the benefit of creditors generally, and the provisions of subsection (3) shall apply in relation to proceedings under any deed of arrangement as they apply in relation to insolvency proceedings.

(5) Where the permission of the bank is required under this Act for the payment of a debt the amount of which is sufficient under section 18 of the Insolvency Ordinance, to enable the creditor to petition for the sequestration of the estate of the debtor if the debtor commits an act of insolvency, the debt may, notwithstanding the aforesaid requirement, be allowed to be a good petitioning creditor's debt, if and to the extent that the debt can be satisfied either by a payment into court or by a payment to a blocked account.

Persons leaving Sri Lanka.

**36.** Where a person resident in Sri Lanka leaves Sri Lanka, the bank may, before, at or after the time he leaves Sri Lanka, direct that, for such period as may be specified in the direction, payments by him or on his behalf and to him or to his credit and transactions in or in relation to Treasury Bills, securities or secondary securities in which he is in any way concerned shall, whether or not he continues to be resident in Sri Lanka, be subject to such restrictions as may be specified in the direction.

Determination of residence.

**37.** (1) Where any question arises as to the territory in which a person is or is not resident, the territory in which such person shall, for the purposes of this Act, be treated as resident or not resident, as the case may be, shall be determined in accordance with such general or special directions as may be given in that behalf by the Minister.

(2) For the purposes of this Act, the executor of the last will or the administrator of the estate of a deceased person shall,

unless the Minister otherwise directs, be treated in respect of any matters in which such executor or administrator is concerned solely in his capacity as such, as resident—

- (a) if directions given under subsection (1) apply in the case of such deceased person, in the territory in which he is required by such directions to be treated as having been resident; or
- (b) in any other case, in the territory where at the time of his death the deceased person was resident.

**38.** The bank may give—

Directions to bankers, authorized dealers. &c.

- (a) to bankers and to persons who are concerned with the keeping of any register in Sri Lanka or are entrusted with the payment of capital moneys, dividends or interest in Sri Lanka, directions as respects the exercise of any functions exercisable by them by virtue of, or by virtue of anything done under, any provision of this Act, and

(b) to authorized dealers—

- (i) such directions as aforesaid, or
- (ii) directions as to the terms on which they are to accept gold or foreign currency, or .
- (iii) directions requiring them to offer their gold or specified foreign exchange for sale to the Central Bank on such terms as may be set out in the directions.

[§7,17 of 1971-]

**39.** (1) Without prejudice to any other provisions of this Act, the bank may give to any person in, or resident in, Sri Lanka directions requiring him—

Furnishing of information and production of documents. [§ 8, Law 39 of 1973.]

- (a) to furnish, within such time and in such manner as may be specified in such directions, to the bank or to any person designated in such directions as a person authorized to require it, any information in his

possession which the bank or the person so authorized, as the case may be, may require for the purpose of securing compliance with, or detecting evasion of, the provisions of this Act, or where such person does not have the information in his possession, to obtain such information from any such person in Sri Lanka or abroad as may be specified in such directions and to furnish such information to the bank or to the person authorized; or

(b) to attend in person before any officer specified in such directions at such place, at such date and at such time as may be specified therein so that he may be examined on any such matter or matters as may be specified in such directions.

[§ 8, Law 39 of 1973.] (IA) Any person examined under the provisions of subsection (1) (A) shall answer truly all questions put to him by the officer examining him.

(2) A person required by any directions given under subsection (1) to furnish information shall also produce such books, accounts or other documents in his possession or control as may be required, for the purpose referred to in subsection (1), by the bank or by the person authorized to require the information, as the case may be.

(3) Nothing in the preceding provisions of this section shall be taken to require any person who has acted as counsel or attorney-at-law for any person to disclose any privileged communication made to him in that capacity.

(4) Where a person is convicted for failing to give information or produce any books, accounts or other documents when required so to do under this section, the court may make an order requiring the offender, within such period as may be specified in the order, to comply with the requirements to give the information or produce the books, accounts or other documents.

[§ 8, Law 39 of 1973.] (5) In this section, "bank" includes any officer of the Department of Inland

Revenue or Department of Customs generally or specially authorized by the Monetary Board to exercise the powers conferred by this section.

40. (1) If the Head of the Department of Exchange Control or any such officer who is designated as an Assistant to him or any such public officer not below the rank of Assistant to the Head of a Department of Government, as may be authorized by the Head of the Department of Exchange Control to act for the purposes of this section is satisfied—

Search of premises, [§ 10, Law 39 of 1973.]

(a) that there is reasonable ground for suspecting that an offence under this Act has been or is being committed and that evidence of the commission of the offence is to be found at any premises or in any vessel, vehicle or aircraft or with any person; or

(b) that any books, accounts or other documents which ought to have been produced under section 39 and have not been so produced are to be found at such premises or in any such vehicle, vessel or aircraft or with such person; or

(c) that any foreign currency is to be found at any such premises or in any such vehicle, vessel or aircraft or with any such person,

the Head of the Department of Exchange Control or such officer may enter such premises or, as the case may be, any premises upon which the vehicle, vessel or aircraft or person may be, and search such premises, or, as the case may be, such vehicle, vessel, aircraft or person.

(2) The Head of the Department of Exchange Control or such officer, as the case may be, may seize any article which is found in the premises or in the vehicle, vessel or aircraft or with the person and which he has reasonable grounds for believing to be evidence of the commission of any offence under this Act, or any books, accounts or documents which he has reasonable grounds for believing ought to have been produced under section 39 :

Provided that no female shall, in pursuance of a search under this section, be searched except by a female.

recklessly make any statement which is false in a material particular.

(3) Where by virtue of this section a person has any power to enter into any premises, he may use such force as is reasonably necessary for the purpose of exercising that power.

**43.** This Act shall bind the State and shall apply to transactions by a Government department or any person acting on behalf of the State. Application to state-

Where by virtue of this section, an officer has power to search a person, such officer may examine such person, and such person shall answer truly all questions put to him by the officer examining him.

**44.** Any provision of this Act imposing any obligation or prohibition shall have effect subject to such exemptions as may be granted by order of the Minister, and any such exemption may be either absolute or conditional. Exemptions.

(4) No person shall obstruct any other person in the exercise of any powers conferred on that other person by virtue of the preceding provisions of this section.

**45.** Every decision of the bank to grant or refuse any permission under this Act, or to revoke any permission which has been so granted, or to rescind, add to or vary any conditions or to extend or reduce any time-limit to which the permission granted is subject, shall be communicated in writing by the bank to the person by whom application for the permission was made or, as the case may be, to whom the permission was granted. Decisions of bank-

(5) Any person empowered to do any act under this section may, if he thinks fit so to do, obtain the assistance of a peace officer for doing such act.

Retention of seized articles.

**41.** (1) Any article seized by any authority under or by virtue of this Act which the authority has reasonable ground for believing to be evidence of the commission of an offence against this Act may be retained for a period of three months or, if within that period there are commenced legal proceedings in respect of such an offence in which the article is, or can properly be, adduced in evidence, until the final determination of those proceedings.

**46.** A person in regard to whom the bank makes a decision under this Act may, if he is dissatisfied with that decision, make a written appeal against the decision to the Minister within ten days after that decision is communicated to him. Appeals.

(2) The powers conferred by this section in relation to any article shall be in addition to, and not in derogation of, any powers otherwise exercisable in relation thereto.

**47.** A decision of the bank against which an appeal is not made in accordance with the provisions of section 46, and a decision of the Minister on an appeal made in accordance with those provisions, shall be final and conclusive and shall not be subject to review or be called in question in any court. Finality of decisions.

Destruction, &c., of documents, and false statements.

**42.** No person in or resident in Sri Lanka shall—

**48.** Any permission, consent or authority granted under this Act may be— Provisions relating to permission, consent or authority.

(a) with intent to evade the provisions of this Act, destroy, mutilate, deface, secrete or remove any books, accounts or other documents, or

(a) general or special,  
(b) absolute or conditional,

(b) in furnishing any information for any of the purposes of this Act make any statement which he knows to be false in a material particular, or

(c) limited so as to expire on a specified date, unless renewed, and  
(d) varied or revoked.

Burden of proof of permission.

**49.** In any prosecution of a person for an offence against this Act, the burden of proving that he had obtained the permission or consent of the bank for doing the act or making the omission which constitutes the offence shall be on him.

communicates any such matter to any person other than—

(a) the person to whom that matter relates or his authorized representative, or

Presumption relating to foreign currency. [§2,47 of 1957.]

**49A.** In any prosecution for the offence of contravening any of the provisions of this Act in relation to foreign currency, it shall be presumed, until the contrary is proved, that the currency in respect of which the offence is alleged to have been committed is genuine.

(b) the Monetary Board, or

(c) the Governor of the Central Bank or an officer of the Central Bank authorized by such Governor to obtain information regarding that matter, or

Admissibility of certain documents. [§ 11, Law 39 of 1973.]

**49B.** In any legal proceedings in respect of any offence under this Act, any of the following documents may be produced in court and given in evidence against any accused and shall be *prima facie* evidence of the matters, transactions or accounts therein contained:—

(d) the Secretary to the Ministry charged with the subject of Finance, or

(e) a public officer authorized by the Minister to obtain information regarding that matter, or

(a) a certified copy of a banker's book or of any extract thereof obtained from the manager or principal accountant of the bank;

(f) a person to whom it is necessary to communicate that matter for the purpose of securing compliance with, or detecting evasion of, any provision of this Act, or of any other written law,

(b) a certified copy of any book or other record required by law to be maintained by a company or a certified copy of any extract thereof, obtained from a director or secretary of the company ; and

or suffers or permits any unauthorized person to have access to any books, papers or records of the aforesaid department or in the possession or custody, or under the control, of the head of that department, shall be guilty of an offence.

(c) a certified copy of any document or of an extract thereof in the proper custody of an officer of a foreign Government, and obtained from such officer.

(2) No officer or servant of the Department of Exchange Control shall, in any legal proceedings to which the Monetary Board is not a party, be compellable, except by order of the court, to produce any book or document or to divulge or communicate any matter coming under his notice in the performance of his duties under this Act.

Indemnity for acts done in good faith.

**50.** No person shall be liable in any suit or other legal proceedings for any act done, or purporting to be done, in good faith in pursuance of the powers conferred by or under this Act, or for the purpose of carrying out the provisions of this Act-

(3) For the purposes of this section any officer authorized by the Monetary Board of 1973.] under subsection (5) of section 39 shall be deemed to be an officer of the Department of Exchange Control of the Central Bank.

Duly of officers and servants to maintain secrecy. [§ 2. 35 of 1956.]

**50A.** (1) Except in the performance of his duties under this Act, every officer or servant of the Department of Exchange Control of the Central Bank shall preserve, and aid in preserving, secrecy with regard to all matters that may come to his knowledge in the performance of his duties under this Act; and any such officer or servant who

**51.** (1) Any person in or resident in Sri Lanka who contravenes any provision of this Act or of any regulation made under



this Act or fails to comply with any direction given or condition or requirement imposed under this Act shall be guilty of an offence, notwithstanding that the offence may, by virtue of Part IV of this Act, be also punishable under the provisions of the Customs Ordinance.

(2) Any person who attempts to commit an offence against this Act shall be guilty of an offence.

(3) Where an offence against this Act 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.

(§ 13. Law 39 of 1973.]

(4) Any person who commits an offence under this Act shall—

- (a) on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding eighteen months, or to both such imprisonment and a fine; or
- (b) on conviction before the High Court, be liable to imprisonment of either description for a term not exceeding five years, or to both such imprisonment and a fine ;

and where the offence is concerned with any gold, currency, security, goods or other property, the court may, if it thinks fit so to do, order the gold, currency, security, goods, or property to be forfeited ; and any gold, currency, security, goods or property forfeited under this subsection shall be dealt with or disposed of in such manner as the Minister may direct.

(5) Except in the case of a body corporate, the maximum fine which may be imposed for an offence against this Act shall

be fifteen thousand rupees so, however, that where the offence is concerned with any gold, currency, security, payment, goods or other property, and does not consist only of a failure to give information or produce books, accounts or other documents with respect thereto when required so to do under section 39, a larger fine may be imposed not exceeding three times the amount or value of the gold, currency, security, payment, goods or property.

(6) A Magistrate before whom a prosecution is instituted against any person for an offence against this Act may, notwithstanding anything in the Code of Criminal Procedure Act, decide whether he will try that person summarily or take non-summary proceedings in respect of that offence:

Provided that the preceding provisions of this subsection shall not affect or prejudice any right or power of the Attorney-General under the aforesaid Code of Criminal Procedure Act.

(7) No prosecution in respect of any offence under this Act may be commenced except at the instance of, or with the sanction of, the bank;

[§ 13, Law 39 of 1973-]

Provided that this subsection shall not apply to a prosecution commenced by, or at the instance of, the Attorney-General.

(8) 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 to that Act.

[§ 13, Law 39 of 1973.]

(9) Notwithstanding anything in any other law any offence under this Act committed outside Sri Lanka may be tried before a Magistrate having jurisdiction in the division of Colombo or before the High Court holden in the judicial zone of Colombo.

[§ 13, Law 39 of 1973.]

**52.** (1) Before the commencement of a prosecution under this Act, the bank may in writing require any person who in its opinion has committed an offence under this Act to pay as a penalty a sum not

Imposition of penalties by the bank. [§ 14, Law 39 of 1973.]

exceeding two thousand rupees, within such period as may be specified in the notification of such requirement.

(2) Where the offence referred to in subsection (1) is concerned with any gold, currency, security, payment, goods or other property, and is not only a failure to give information or produce books, accounts or other documents with respect thereto when required so to do under section 39,—

(a) the bank may in writing require such person to pay as a penalty within such period as may be specified in the notification of such requirement an additional sum not exceeding three times the amount or value of the gold, currency, security, payment, goods or property ; and

(b) the bank may, if it thinks it fit so to do, in writing require gold, currency, security, goods or property to be delivered to the bank.

(3) Every requirement for delivery to the bank made under subsection (2) (A) shall be communicated to the person in whose possession the gold, currency, security, goods or property required to be delivered is, and such person shall, upon receipt of such communication, deliver to the bank such gold, currency, security, goods or property.

(4) Any gold, currency, goods or property delivered to the bank under this section shall be dealt with or disposed of in such manner as the Minister may direct.

(5) Any sum of money imposed as penalty under this section shall be disposed of in the following manner:—

(a) one-half of that sum shall be forwarded to the Secretary to the Treasury to be credited to the Consolidated Fund ; and

(b) the other half of such sum may be divided among any informer or informers who, in the opinion of the bank, supplied such information as led to the detection of the offence referred to in subsection (1), or may be credited to the Consolidated Fund.

(6) No person against whom a requirement is made by the bank under this section shall except with the permission of the bank, sell, hypothecate, alienate, transfer or dispose of in any manner whatsoever any immovable property or securities belonging to him until such requirement is complied with or until the expiry of a period of two months from the end of the period specified in such order, whichever is earlier:

Provided, however, that where on the failure of such person to comply with such requirement, any action is instituted against such person in respect of the offence committed by him in any court before the expiry of the aforesaid period of two months, the court may direct that the prohibition on disposal of property referred to in the preceding provisions of this subsection shall continue for such further period as the court may determine.

(7) Any person against whom a requirement is made by the bank under this section may, within twenty-one days after the notification of the requirement to him, appeal therefrom in writing to the Minister. The appeal shall state the grounds of objection to the requirement.

(8) On an appeal made under subsection (7), the Minister may confirm, reduce, increase or annul the penalty imposed, or issue such directions in respect of the gold, currency, security, goods or property required to be delivered to the bank as he may think fit.

(9) Where any person pays to the bank the penalty imposed under this section, or pays the penalty and delivers to the bank the gold, currency, security, goods or property required to be delivered to the bank under this section, as the case may be, such person shall not be liable to a prosecution for the offence in respect of which the penalty was imposed or the requirement made.

**53.** (1) The Minister may make such Regulations, forms, &c- regulations as may be necessary for carrying out the principles and provisions of this Act.

(2) No regulation made under subsection (1) shall have effect unless it is approved by Parliament and is published in the Gazette.

(3) All applications, returns and other documents made or furnished under this Act shall be in such form as the bank may from time to time specify or provide for the purpose.

Interpretation. 54. (1) In this Act, unless the context otherwise requires—

" authorized dealer " means, in relation to gold or any foreign currency, a commercial bank for the time being authorized under section 4 to act for the purposes of this Act as an authorized dealer in relation to gold or that foreign currency ;

" bank " or " Central Bank " means the Central Bank of Ceylon established by the Monetary Law Act;

[§ 15, Law 39 of 1973.]

" banker's book " includes any ledger, day book, cash book, account book and any other book used in the ordinary business of a bank;

[§ 15, Law 39 of 1973.]

" banking company " has the same meaning as in the Companies Ordinance ;\*

" bearer certificate " means a certificate of title to securities by the delivery of which (with or without endorsement) the title to the securities is transferable;

" blocked account " has the meaning assigned to it by section 31 (7);

" certificate of title to securities " means any document of title whereby a person recognizes the title of any other person to securities issued or to be issued by the first-mentioned person, and in the case of any such document with coupons (whether attached or on separate coupon sheets) includes any coupons which have not been detached;

[{15, Law 39 of 1973.]

" certified copy " of any book, record, extract or document, means a copy of the book, record, extract or document, together with a certificate written at the foot of

such copy that it is a true copy of such book, record, extract or document; and that such book, record, extract or document is still in proper custody, such certificate being dated and subscribed by the person in whose custody it is, with his name and official title;

" company " means a company registered under the enactments relating to companies from time to time in force in Sri Lanka or in any other country; [§ 15, Law 39 of 1973]

" coupon " means a coupon representing dividends or interest on a security;

" currency " includes coins, currency notes, bank notes, postal orders, money orders, cheques, drafts, travellers' cheques, letters of credit, bills of exchange and promissory notes; [§ 8,17 of 1971]

" foreign assets " means any movable or immovable property outside Sri Lanka of any class or description whatsoever and without prejudice to the generality of the preceding provisions of this definition, includes foreign exchange, foreign currency, gold and securities; [§ 8,17 of 1971.]

" foreign currency " means any currency other than Sri Lanka currency and includes any currency payable by a foreign Government or institution to a person in, or resident in, Sri Lanka in respect of his pension or other gratuities due to him; [§8,17 of 1971.]

" foreign exchange " means foreign currency and includes all deposits, credits and balances payable in any foreign currency, and any such drafts, travellers\* cheques, letters of credit and bills of exchange as are expressed or drawn in Sri Lanka currency but payable in any foreign currency; [8 8,17 of 1971.]

" gold " means gold coin or gold bullion;

" Minister " means the Minister in charge of the subject of Finance;

\* Repealed and replaced by the Companies Act, No. 17 of 1982.

" Monetary Board " means the Monetary Board of the Central Bank;

" policy of assurance " means any policy securing the payment of a capital sum or annuity on the occurrence of a specified event which is certain to happen and includes—

(a) any policy by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, and

(b) any policy securing the payment of an immediate annuity;

and the reference in this definition to the occurrence of a specified event which is certain to happen shall include the occurrence, which is certain to happen, of one of specified events none of which by itself is certain to happen;

" prescribed" means prescribed by the Minister by Order published in the Gazette;

" rupees " means Sri Lanka rupees;

" secondary securities " has the meaning assigned to it by section 19 ;

[§ 15, Law 39 of 1973.]

" securities " means shares, stock, bonds, capital in any partnership, notes (other than promissory notes), debentures, debenture stock, units under a unit trust scheme and shares in an oil royalty;

[§ 8,17 of 1971.]

" specified foreign exchange" has the meaning assigned to it by section 6;

[§8,17 of 1971.]

" Sri Lanka currency" means currency which is expressed or drawn in Sri Lanka rupees;

[§ 15, Law 39 of 1973.]

" tourist, airline or shipping service" means service of any class or description prescribed to be a tourist, airline or shipping service for the purposes of this Act;

" unit trust scheme" means any arrangements made for the purpose, or having the effect, of providing for persons having funds available for investment, facilities for the participation by them, as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of any property whatsoever;

" unit" means, in relation to a unit trust scheme, a right or interest (whether described as a unit, as a sub-unit, or otherwise) which may be acquired under that scheme.

(2) Any provision of this Act (however worded) the effect of which is to prohibit the doing of any act where a person to or by whom the act is to be done or who stands in a specified relation to any property possesses any specified attribute as to residence or otherwise shall, where the act is done to or by two or more persons or, as the case may be, where two or more persons stand jointly in that relation to the property, operate to prohibit the doing of that act if any of those persons possess that attribute; and any provision of this Act imposing an obligation on any person to do an act if he possesses any specified attribute as to residence or otherwise shall, in relation to any act which can only be done by two or more persons jointly—

(a) where all those persons possess that attribute, operate to impose a joint obligation on all of them to do the act, and

(b) where some only of them possess that attribute, operate to impose a separate obligation on each one of them who possesses that attribute to do all he can to secure the doing of the act.

(3) Any power conferred by this Act to require declarations which are to be furnished on any occasion shall include a power to require that the declarations shall be made by specified persons and shall be verified in a special manner.

CHAPTER 430

EPISCOPAL CHURCHES

*Ordinances* AN ORDINANCE TO REGULATE THE TEMPORAL AFFAIRS OF THE EPISCOPAL  
 Nos. 12 of 1846, CHURCHES IN THE ISLAND OF SRI LANKA WHICH HAVE BEEN ERECTED, OR  
 3 of 1883, ARE NOW IN THE COURSE OF ERECTION, OR WHICH MAY HEREAFTER BE  
 30 of 1890, ERECTED.  
 3 of 1894,  
 7 of 1916,  
 17 of 1930,

*Act*  
 No. 6 of 1972.

[26th November, 1846.]

Preamble. Whereas by the Ordinance No. 1 of 1845\* it was enacted that whenever any sum of money not less than one hundred pounds should be raised by subscriptions drawn exclusively from the resources of private persons for the erection of any place of Christian worship in any part of this Island, or for the erection of any such place of worship together with a minister's dwelling, or for the erection or purchase of a minister's dwelling alone in respect of any existing place of worship, in the building or maintenance of which any public moneys had been expended, it should be lawful for the Governor, with the advice of the Executive Council, to cause to be issued from the Treasury, as a contribution from the public funds, such sum or sums of money as should be equal to the amount of such subscription; provided that no such sum should be issued from the Treasury until the whole amount required to be furnished by subscription should have been deposited therein, and a plan of the intended building submitted to the Governor and Executive Council and approved of by them: And whereas by the said Ordinance it was further enacted that, before any sums of money should be issued from the Treasury as aforesaid, trustees should be elected or appointed in such manner as should by some future Ordinances be provided: And whereas certain churches for the celebration of Divine service according to the rites of the United Church of England and Ireland have been erected or are now in course of erection by subscription and by contribution from the public funds as aforesaid, and it is

expedient to make provision for the management of the temporal affairs of the said churches, and of any others which may hereafter be erected in like manner for the purpose aforesaid:

1. This Ordinance may be cited as the Short title.  
 Episcopal Churches Ordinance.

2. Within three months from the passing Notice of election for church already erected  
 of this Ordinance, the colonial chaplain of any church already erected in manner aforesaid shall fix a place and a day, which shall not be earlier than twenty-one days from the passing of this Ordinance, for holding a general meeting for the election of trustees of the said church in manner hereinafter appointed, and shall cause notices thereof to be affixed to some conspicuous parts of the said church.

3. The building committee or persons in or in course of erection  
 charge of the building of any church now in course of erection in manner aforesaid shall, within ten days from the passing of this Ordinance, fix a place and a day in the month of December next ensuing for holding a general meeting for the election of trustees of the said church in manner hereinafter appointed, and shall give notice thereof in three successive Gazettes.

4. The building committee or persons or to be hereafter erected  
 who may be in charge of the building of any church to be hereafter erected in manner aforesaid shall, at the time of making application to the Governor for a contribution from the public funds, fix a

\* Repealed by Ordinance No. 7 of 1868.

place and a day for holding a general meeting for the election of trustees of the said church in manner hereinafter appointed, and shall give notice thereof in three successive Gazettes.

Mode of holding election.

**5.** Any election to be held under the provisions of the three preceding sections shall be held before the person or persons by whom the day and place for holding the same shall have been fixed; and it shall be lawful for the subscribers to any church of which the sittings shall not have been apportioned, or for the seatholders, if the same shall have been apportioned, in respect of which such election shall be held, to elect three trustees of such church :

Mode of voting.

Provided always that no subscriber or seatholder shall be entitled to give more than one vote, or to give any vote except in person, and that no person shall be entitled to vote who shall not be twenty-one years of age, and the person or persons holding any such election shall record the names of the voters and of the persons for whom their votes shall be given, and shall at the close of the election declare the names of the three persons for whom the greatest number of votes shall have been recorded, who shall thereupon be deemed to be duly elected as trustees, and shall grant to such persons certificates under their hands of such their election.

Appointment by Bishop of one trustee.

**6.** The trustees elected under the provisions of section 5 shall without delay communicate such their election to the Bishop of the diocese, who shall thereupon be entitled to appoint one other person to be a trustee of the church in respect of which such trustees shall have been elected, and shall grant to such person a certificate of such his appointment; and it shall be lawful for the Bishop from time to time, if he shall see fit so to do, to withdraw any such appointment, and to appoint some other person to be a trustee of such church, and to appoint a new trustee in the place of any trustee originally appointed by him who shall in any manner have vacated his office.

Vacancy of trustee.

**7.** In case of the death, incapacity, resignation, or departure of any trustee of any church elected under the provisions of this Ordinance, or of his ceasing to be a

seatholder, or of his election not being confirmed by the Governor, or in case any such trustee shall be a confirmed person of unsound mind, or shall be or become disqualified to act in such capacity, the remaining trustees of such church shall fix a place and a day for holding an election of a new trustee, and shall give notice thereof in the three Gazettes published next immediately preceding such day, and such election shall be held by the said trustees according to such and the same forms as are hereinbefore prescribed for the election of the original trustees.

Qualificati of trustee.

**8.** Every trustee to be elected or appointed under the provisions of this Ordinance shall be a member of the United Church of England and Ireland, and no person shall be elected or appointed or shall continue to be a trustee of any church after the apportionment of the sittings in the same unless he shall be one of the seatholders therein.

Trustee resigning to render account.

**9.** No trustee shall be permitted to resign his office until he shall have duly accounted, to the satisfaction of his co-trustees, for all sums of money at any time received by him in his said trust.

Annual election of rusees-

**10.** No trustee elected under any of the provisions of this Ordinance shall continue in office beyond the thirty-first day of December next ensuing after such his election; and the trustees for the time being of any church erected or to be erected in manner aforesaid shall fix a place and a day in the month of December in every year for the holding before them of a general meeting for the election of three new trustees of such church for the year commencing on the first of January next ensuing, and shall cause written notice thereof to be posted for fourteen days in some conspicuous place on or near the church; and such election shall be held according to such and the same forms as are hereinbefore prescribed for the election of the original trustees of such church:

Provided always that nothing herein contained shall be construed to prevent any person who at the time of holding such election may be one of the trustees of any such church from being elected as such for the ensuing year.

Bishop to appoint in default of election of trustees.

**11.** If after the election and appointment of the original trustees of any such church the trustees for the time being shall, for the period of one month, neglect to fix a place and a day for holding an election of a trustee in the room of one who may in any manner have vacated his office, or whose election the Governor shall have refused to confirm, or if they shall for the like period neglect to fix a place and a day for holding an election of trustees for the ensuing year as hereinbefore appointed, it shall be lawful for any six of the subscribers to such church, or if the sittings shall have been apportioned, for any six of the seatholders, to fix such place and day, and to give notice of the same in manner hereinbefore appointed; and such election shall be held before the chaplain or clergyman of such church ; but if no such election shall be held within two months from the time appointed by this Ordinance, it shall be lawful for the Bishop of the diocese to appoint by writing under his hand, subject to approval of the Governor, one or more fit and proper person or persons to be trustee or trustees of such church to fill the vacancy or vacancies which shall have thus occurred, and every such trustee so appointed shall continue in office until the thirty-first day of December next ensuing.

Bishop may be sole trustee.

**12.** Nothing in this Ordinance contained shall be construed to prevent any person or persons who may hereafter, without any pecuniary or other contribution from the Government, erect any church for the celebration of Divine service according to the rites of the United Church of England and Ireland, from nominating the Bishop of the diocese for the time being and his successors to be the sole and successive trustees of such church, and in any such case the Bishop shall hold, exercise, and enjoy in respect to such church all the rights and privileges vested in trustees elected or appointed under this Ordinance.

Chaplain or clergyman chairman of trustees.

**13.** The colonial chaplain or clergyman for the time being duly appointed and licensed to any church erected in manner aforesaid, or during his absence the clergyman duly authorized to officiate for him, shall, whenever present at any meeting of the trustees of such church, be ex officio chairman of such meeting, but shall not

have the power of voting except in cases where the votes of the trustees present shall be equal; and when no such chaplain or clergyman is present the trustees shall elect their own chairman, and such trustees shall upon all matters before them have each one vote, and any three such trustees, or any two with the ex officio chairman, shall form a quorum, and any such quorum shall and may exercise all the powers and privileges which are vested in the trustees of any church by this Ordinance ; and in the event of a difference of opinion between such trustees on any occasion, the votes of the majority shall be binding upon all; and in case of an equality of votes, and in the absence of the chaplain or clergyman, the chairman for the time being shall, in addition to his own vote, possess a casting vote, and such trustees shall have power from time to time to make by-laws (such laws not being inconsistent with this Ordinance) for their general guidance, which laws shall be equally binding on and shall be observed by their successors until by them abrogated or altered :

Provided always that the meetings of the trustees shall take place on stated days agreed to by a majority for the transaction of ordinary business and that if the meeting be extraordinary or special seven days' notice thereof, and of its object, shall be given in writing to each of the said trustees and to the chaplain or clergyman, and that it shall at any time be competent for any two of the said trustees to convene such special meeting.

**14.** The real estate and property in any church of which trustees shall be elected and appointed in the manner aforesaid, and in any burial ground now belonging or which may at any time hereafter belong thereto, and their appurtenances respectively, and in all lands and hereditaments and in all moneys and chattels belonging or which may hereafter belong thereto, shall be deemed and taken to be vested in such trustees for the purposes of their trust.

Property vested In trustee

**15.** It shall be lawful for the said trustees to lease any portion or portions of the real estate and property vested in them as trustees, or any right or privilege a over or affecting any such estate or property, for the purposes of their trust,

Power to trustee to lease real property for a term not exceeding

ninety nine years.

provided that the following conditions be observed:—

- (a) every such lease shall be made to take effect in possession at or within one year next after the making thereof, and shall be for such term, not exceeding ninety-nine years, as the trustees shall think proper;
- (b) on every such lease shall be reserved the best rent or reservation in the nature of rent, either uniform or not, that can be reasonably obtained;
- (c) every such lease shall be by notarial instrument, and shall contain a condition for re-entry on non-payment of the rent for a period not less than twenty-eight days after it becomes due;
- (d) every such lease shall contain such covenants, conditions, and stipulations as the said trustees shall deem expedient with reference to the special circumstances of the demise.

17. The said trustees shall and they are hereby required as soon as may be after their election and appointment, or as soon as possible after the church shall be ready for the performance of Divine worship, to set out and apportion sittings in the church entrusted to them, and to affix and assess a rent or rate for such sittings and make agreements and contracts with any person desirous to engage the same according to such assessment:

Trustees to apportion sitting

Provided always that one-sixth part of the whole number of sittings in any such church shall be appropriated free of any charge whatever to the use and accommodation of the poorer classes of the population, and also not less than four sittings for the use and occupation free of all charge of the chaplain or clergyman; and such sittings shall for ever be kept apart for the purposes aforesaid.

18. Every subscriber to any church erected in manner aforesaid, provided he be bona fide resident within twenty miles of the same, shall be entitled to engage such number of sittings therein as he may really require for the use of himself and his family, and the priority of choice amongst such subscribers shall be determined by the trustees ; and after all the sittings shall have been so apportioned in the first instance the trustees shall register in a book to be by them kept for that purpose, all subsequent applications for sittings in the order in which they may be received by them, and shall allot such sittings as may thereafter become vacant to the parties who may have applied for the same according to such order.

Subscribers entitled to sittings.

19. It shall be lawful for the said trustees, and they are hereby required, to collect and gather or cause to be collected and gathered, all sums of money which shall be due for sittings in any such church, and all subscriptions and donations thereunto, and all rents and revenues that may at any time arise out of any land or hereditaments or from any property whatever belonging to such church, and all fees and payments for vaults and tombstones, and to apply for the said sums ; and it shall be lawful for the said trustees in conjunction with the chaplain or clergyman of such church, who in respect of such appointments or removals shall have a

Trustees to collect moneys,

and remove offices,

Trustees to make agreements, &c.,

and sue and be sued.

16. It shall be lawful for the said trustees to make or enter into, perform, and execute, and compel the performance and execution, of all such contracts and agreements, matters and things, and to commence and maintain all such suits and actions as they shall deem necessary to the performance of the trust reposed in them; and all such contracts and agreements shall and may be entered into and enforced and all such suits and actions be brought by them in the name of " The Trustees of the Church ", specifying the name of the church, but without specifying the Christian or surname of the trustees, and no action shall abate by reason of the death or removal or going out of office of any trustee; and all suits and actions the cause of which shall arise or accrue to any person whatsoever from or by reason of any contract or agreement or any other matter or thing made or entered into, done or performed by the said trustees in the execution of the said trust, shall be brought by such person against the said trustees under the name and title aforesaid ; nor shall any of the said trustees, merely by reason of his being a plaintiff in any such suit, be prevented from being a witness therein.



vote, to appoint, suspend, and remove all church officers and servants employed in or about any such church (the clerk of the same excepted, who shall in each case be appointed and removed by the chaplain or clergyman only); and it shall be lawful for the said trustees generally to manage the temporalities of every such church, and to provide such articles as may be necessary for the proper celebration of Divine service therein, and to fix the salaries or other remuneration of all such officers and servants (including such clerk as aforesaid), and to pay the amount thereof respectively, and of all repairs of buildings and other expenses, which circumstances may from time to time render necessary, by or out of such rents and fees as aforesaid, or out of such other funds as may come to their hands.

and defray necessary expenses.

Trustees authorized to acquire property and maintain parsonages, schools, and missions out of income and collections.

20. It shall be lawful for the said trustees, after defraying such necessary expenses as are specified in section 19, to spend any income, rents, revenues, interest, fees, collections, or subscriptions, or any other funds which may come into their hands as trustees of any such church, in the purchase or acquirement of property of any description for the purposes of their trust, or in the payment of the stipends of the clergy, teachers, and catechists of such church, or in the erection or purchase of a parsonage for the use of the clergymen of such church, or for the maintenance of such parsonage and of schools or missions attached to such church, or on any other religious work connected with such church.

Erection of monuments, &c.

21. It shall and may be lawful for the said trustees, with the previous consent of the Bishop of the diocese, and with his approval of any proposed epitaph or inscription, to permit any monument to be erected or placed in such parts of any church erected or to be erected as aforesaid, or of the enclosed ground about the same, or of the burial ground belonging thereto, as they may deem convenient, or vaults to be dug and made in the said burial ground, upon payment to the said trustees, for the use of such church, for such permission, by the person or persons desiring to erect or place any monument therein or enclosed ground about the same, or in the said burial

ground, or to dig and make any vault in the said burial ground, on such charges as to the said trustees shall appear fitting:

Provided that the same shall in no case exceed the charges set forth in the Schedule A; and it shall be lawful for any person or persons erecting or placing any monument in any such church or enclosed ground about the same, or digging or making any vault in the said burial ground, by and with such permission as aforesaid, to have and maintain and keep up such monument or vault, according to the terms of such permission, to and for the sole and separate use of the said person or persons and his or their heirs for ever;

Provided always that it shall not be lawful to bury any body within any such church or within the enclosed ground about the same.

22. One person, not being a trustee", shall be elected at a general meeting to be called by the trustees in the first week in January in every year, to be an auditor of the yearly accounts of the said trustees.

Appointment of auditor.

23. The said trustees shall keep an account, wherein they shall enter all moneys received and paid by them under and by virtue of the provisions of this Ordinance, which account the auditor may inspect at all reasonable times, and the said account, together with any report of the auditor thereon, shall be laid before the general annual meeting to be held under the provisions of section 10 of this Ordinance.

Trustees to keep account.

24. It shall be lawful for the said trustees to accept or take from persons willing to give the same, or from the State, subject to the provisions of any law now or hereafter to be in force relating to such gifts, any lands or premises adapted for the site of a chaplain's dwelling, with the garden and other appurtenances thereunto, or any lands or premises adapted for the purposes of a burial ground, or any lands or premises for the maintenance of such church or of the chaplain thereof and such lands or premises so given shall be deemed and taken to be for ever vested in the trustees of the said church for the time being in trust for the purposes thereof.

Trustees may accept lands.

Performance of service for troops.

25. It shall be lawful for the Governor, should circumstances render the same necessary, to require the free use of any church erected or to be erected in manner aforesaid for the performance of Divine service for the benefit of any troops stationed at or near to the same, at such hour during any Sunday as may be fixed by the said Governor after communication with the Bishop of the diocese:

Provided always that such extraordinary service shall not interfere with the ordinary services of the day.

Trustees to nominate clergyman.

26. It shall be lawful for the said trustees, on the death, retirement, removal, or incapacity of the colonial chaplain or clergyman of any such church, to nominate a fit person to be clergyman thereof, subject to the consent of the Bishop of the diocese, and to such rules made by the synod of the diocese in regard to such nomination as may be lawfully binding on them.

Certain churches declared exempt.

27. The churches mentioned in Schedule B are and they are hereby declared exempt from the operation of this Ordinance and any amending enactment thereof.

Standing committee of the Diocesan Council empowered to exempt churches. [§ 8, 6 of 1972.]\*

28. If at any time any of the aforementioned churches which have not been included in Schedule B desire to be exempted from the operation of this Ordinance, the trustees of any such church may apply to the standing committee of the Diocesan Council of the Diocese in which it is situated to be exempted from the operation of this Ordinance, and the said standing committee is hereby empowered to grant such exemption by the issue of a certificate signed by the Bishop of the

[§ 8, 6 of 1972.]

Diocese in the form set out in Schedule C and on the issue of such certificate the said church shall be exempt from the operation of this Ordinance:

Provided always that no such application shall be entertained, unless the said standing committee shall be satisfied that two-thirds of the seatholders of the said church present

at three consecutive annual meetings of the congregation have voted in favour of such application.

29. The churches exempted by section 27, and also such churches as shall hereafter be exempted under this Ordinance, and all property belonging or appertaining thereto, shall vest absolutely in the Incorporated Trustees of the Church of England in Ceylon, subject to the provisions of the Church of England Ordinance and any amending enactment thereof, and subject to any special trust affecting such property.

Churches exempted and hereafter to be exempted to vest in the Incorporated Trustees of the Church of England.

30. No person shall be suffered to perform Divine service or to administer the sacraments, or to preach any sermon in any such church, except the Bishop of the diocese, the archdeacon, and the colonial chaplain duly appointed and licensed to such church, or some clergyman duly appointed by the ordinary.

Exclusive privileges chaplain.

31. Nothing in this Ordinance contained shall affect the right of the said trustees to sell any real estate and property vested in them as trustees in pursuance of and in accordance with, the terms and conditions contained in the instrument or deed of trust.

Trustees may sell if authorized thereto by trust deed.

32. Any power or function vested in or assigned to the Governor by any of the preceding provisions of this Ordinance, and continuing to be exercisable by him immediately before the 4th day of February, 1948, shall, on and after that day, be exercisable by the Governor-General, and on and after the 22nd day of May, 1972, be exercisable by the President.

Powers, &c., of Governor to be exercisable by President.

33. Nothing in this Ordinance contained shall or shall be deemed and taken to affect the Kandy Church Ordinance, or to extend the provisions of this Ordinance to such church, but the said Ordinance shall continue to be of full force and effect, and the affairs of the said church in Kandy shall continue to be regulated thereby.

Ordinance not to affect the Kandy Church Ordinance.

\* The amendments effected by sections 8 and 9 of Act No. 6 of 1972 are deemed to have had effect only from and after 2nd February, 1950.

**Cap. 430]**

**EPISCOPAL CHURCHES**

[Section 21.]

**SCHEDULE A**

Erecting a tablet or monument in the church, not less than fifty rupees nor more than two hundred rupees.

Erecting a monument in the ground adjoining the church, not being the burial ground, any sum not less than thirty rupees nor more than one hundred rupees.

Burial in a brick or stone grave in the burial ground,, ten rupees.

Headstone or footstone (each), five rupees.

A stone covering over such grave, ten rupees.

A vault, for each person it is capable of containing, fifteen rupees, and on every occasion of its being opened, ten rupees.

A raised tomb over a vault, for each person it is capable of containing, fifteen rupees.

[Section 27.]

**SCHEDULE B**

CHURCHES EXEMPTED BY THIS ORDINANCE

All Saints' Church, Gallc; Christ Church, Matale; St. Clement's, Puttalam; Holy Trinity, PusseUawa.

[Section 28.]

**SCHEDULE C**

CERTIFICATE OF EXEMPTION

[§ 9,6 of 1972.] The Standing Committee of the Diocesan Council of the Diocese of Colombo/Kurunegala hereby exempts..... from the operation of the Episcopal Churches Ordinance.

Dated at Colombo/ Kurunegala this ..... day of..... 19.....

Bishop of Colombo/Kurunegala.

CHAPTER 350

ESTATE DUTY

Act No. 13 of 1980. AN ACT TO PROVIDE FOR THE LEVY AND COLLECTION OF ESTATE DUTY ON THE VALUE OF THE ESTATES OF PERSONS DYING ON OR AFTER NOVEMBER 15, 1978; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[20th February, 1980.]

Short title. 1. This Act may be cited as the Estate Duty Act. made under section 17 for any debt or encumbrance referable to such property.

CHAPTER I

CHAPTER II

IMPOSITION OF ESTATE DUTY

PROPERTY PASSING ON DEATH

Imposition of estate duty. 2. Except as hereinafter provided, there shall be levied and paid upon the value of the estate of every person, dying on or after November 15, 1978, a duty called estate duty computed in accordance with the provisions of section 3.

4. Property passing on the death of a deceased person shall be deemed to include the following:— Property deemed to pass on death.

Amount of estate duty. 3. (1) The amount of estate duty payable upon the value of the estate of any person dying on or after November 15, 1978, shall be computed at the appropriate rates specified in the Schedule to this Act.

(a) property which the deceased was competent to dispose of at the time of his death;

(2) For the purpose of estimating the value of the estate of any deceased person, all property forming part of his estate shall be aggregated so as to form one estate.

(b) property taken as a donatio mortis causa made by the deceased ;

(3) Property passing on any death shall not be aggregated more than once for the purpose of estimating the value of the estate of the deceased, nor shall estate duty be levied more than once on any property on the same death.

(c) property which the deceased, having been absolutely entitled thereto, has caused to be transferred to or vested in himself and any other person jointly, whether by disposition or otherwise, (including also any purchase or investment effected by the deceased alone, or in concert or by arrangement with any other person), so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to such other person;

(4) The estate duty payable in respect of any property forming part of the estate of a deceased shall be such proportion of the estate duty computed in accordance with subsection (1), payable upon the value of that estate as is equal to the proportion which the value of that property bears to the value of that estate. In determining the value of that property a deduction shall be made of an amount equal to an allowance

(d) money received under a policy of insurance effected by the deceased on his life where the policy is wholly kept up by him for the benefit of a donee, whether nominee or assignee, or a part of such money in proportion to the premium paid by the deceased, where the policy is partially kept up by the deceased for such benefit;

(e) any annuity or other interest purchased or provided by the deceased, either by himself alone or in concert or by arrangement with any other person, to the extent of the beneficial interest accruing or arising, by survivorship or otherwise, on the death of the deceased.

established for public officers or for officers in the Local Government Service, nor in respect of any pension or annuity payable by the Government of any foreign country to the widow or child of any deceased officer of such Government notwithstanding that the deceased contributed during his lifetime to any fund out of which such pension or annuity is paid.

**CHAPTER III**

**EXEMPTIONS**

property held by trustee,

**5.** Property held by the deceased as trustee for another person under a disposition enforceable at law not made by the deceased or under a disposition enforceable at law made by the deceased, being a disposition under which possession and enjoyment of the property was bona fide assumed by the beneficiary immediately upon the creation of the trust and thenceforward retained to the entire exclusion of the deceased or of any benefit to the deceased by contract or otherwise, shall be deemed not to pass on the death of the deceased.

Exemption from estate duty in case of small annuities.

**6.** Estate duty shall not be payable in respect of one or more annuities not exceeding ten thousand rupees in the aggregate purchased or provided by the deceased, either by himself alone or in concert or arrangement with any other person for the life of himself and of some other person and the survivor of them, or to arise on his own death in favour of some other person.

Exemption of properties bequeathed to the Government, &c.

**7.** Estate duty shall not be payable in respect of any property bequeathed by the deceased to the Government of Sri Lanka or any university or public library in Sri Lanka or the Ceylon National Library Services Board established by the Ceylon National Library Services Board Act or any local authority and accepted by such Government, university, library, board or local authority.

Approved pensions.

**8.** Estate duty shall not be payable in respect of any pension granted to the widow or child of the deceased under the Widows' and Orphans' Pension Fund Ordinance or under any pension fund or scheme

**9.** Where a member of a Hindu undivided family dies, no estate duty shall be payable—

Hindu undivided families.

(a) on any movable property which is proved to the satisfaction of the Commissioner-General to have been the joint property of that family; or

(b) on any immovable property, where it is proved to the satisfaction of the Commissioner-General that such property, if it had been movable property, would have been the joint property of that family.

**10.** Estate duty shall not be payable in respect of the estate of any person who was, on the date of his death, a resident guest as defined in the Resident Guest (Tax Exemption) Act.

Resident guests.

**11.** Where property passing on the death of any person includes any residential premises, a sum of three hundred thousand rupees of the value of one such premises, if the value of such premises is equal to or exceeds three hundred thousand rupees, or the value of such premises, if the value of such premises does not exceed three hundred thousand rupees, shall be exempt from the payment of estate duty.

Exemption for one residential premises.

**12.** Where under the last will of a deceased person a sum not exceeding thirty thousand rupees in the aggregate is directed to be paid to one or more persons who were bona fide employees of the deceased in Sri Lanka, such sum shall be exempt from the payment of estate duty, if no exemption has been granted in respect of that sum under section 6.

Legacies to bona fide employees.

**13.** Where under the last will of a deceased person a sum not exceeding one hundred thousand rupees in the aggregate is

Legacies to approved charities.

directed to be paid to one or more charitable institutions declared by the Minister, by notice published in the Gazette, to be an approved charity for the purposes of section 31 (9) (a) of the Inland Revenue Act (No. 28 of 1979) such sum shall be exempt from the payment of estate duty.

- (ii) the price which in the opinion of the Assessor, that property would have fetched if sold in the open market on the date of the death of the deceased,

whichever price is the lower; and

Exemption for household goods not exceeding twenty-five thousand rupees in value.

**14.** Where property passing on the death of a person includes any household goods or jewellery, a sum not exceeding twenty-five thousand rupees or the value of such goods and jewellery, whichever is less, shall be exempt from the payment of estate duty.

- (b) if such property was acquired by the deceased after March 31, 1977, be estimated to be—

- (i) the price which in the opinion of the Assessor that property would have fetched if sold in the open market on the date on which such property was acquired by the deceased, increased by an amount equal to the cost of the improvements, alterations and additions, if any, made to such property after the date on which such property was acquired by the deceased and prior to the date of death of the deceased; or

- (ii) the price which in the opinion of the Assessor, that property would have fetched if sold in the open market on the date of death of the deceased,

whichever price is the lower.

**CHAPTER IV**

**DETERMINATION OF VALUE OF PROPERTY**

Value of property.

**15.** (1) Subject as hereinafter provided, the value of any property shall be estimated to be the price which, in the opinion of an Assessor, such property would fetch if sold in the open market at the date of death of the deceased, and no reduction shall be made in the estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at one and the same time :

Provided that where it is proved to the satisfaction of an Assessor that the value of the property has been depreciated by reason of the death of the deceased, the Assessor shall, in estimating the value of such property, take such depreciation into account:

Provided further that where the property to be valued is immovable property, the value of such property shall—

- (a) if such property was acquired by the deceased on or before March 31, 1977, be estimated to be—

- (i) the price which in the opinion of the Assessor that property would have fetched if sold in the open market on March 31, 1977, increased by an amount equal to the cost of improvements, alterations and additions, if any, made to such property after March 31, 1977 and prior to the date of death of the deceased : or

(2) Where income in respect of any property has accrued due but has not been received by the deceased prior to his death, the value of that property for the purposes of this Act shall be the aggregate of the price estimated under subsection (1) and the amount of such income.

(3) Where the property to be valued is an undivided share in any land, the value of that undivided share shall be the proportionate amount of the value of the whole land as estimated under subsection (1) reduced by an amount equivalent to ten *per centum* of such proportionate amount.

(4) (a) Where the property to be valued consists of shares (not being preference shares) in any company which by its articles restricts the right to transfer its

shares or which is a company controlled by not more than five persons, and the Commissioner-General is satisfied that the shares have not, within the period of twelve months immediately preceding the death of the deceased, been quoted in the official list of a recognized stock exchange or in a list of a like nature issued in Sri Lanka by any association of brokers approved by the Secretary to the Treasury for the purposes of this subsection, the value of such shares for the purpose of this Act may, notwithstanding anything in subsection (1), be estimated by reference to the value of the total assets of the company.

(b) For the purposes of paragraph (a)—

" company controlled by not more than five persons " means a company in which more than half the total shares issued are held by not more than five persons, their wives, or minor children, either directly or through nominees;

" preference share" means a share the holder of which is entitled to a dividend at a fixed rate only ;

" share " includes any interest whatsoever in a company, by whatsoever name it is called, analogous to a share;

" value of the total assets of a company " means the value, estimated in accordance with the provisions of subsection (1), of all the assets of the company as a going concern, including goodwill, after deducting therefrom—

- (i) the par or redemption value, whichever is the greater, of any debenture stock and preference shares of the company;
- (ii) all debts of the company incurred or created bona fide for consideration in money or money's worth;
- (iii) such sum as on a Just and fair computation represents any future or contingent liabilities

of the company or any liabilities thereof which are uncertain in amount;

- (iv) the amount of any reserve fund separately invested which is bona fide intended to be applied in payment of pension to employees or otherwise for the benefit of employees or their dependants or relatives, and in no other manner.

**16.** Where the property passing on the death of a person consists of the proceeds from an insurance policy effected by the deceased on his life or from any Tax Reserve Certificate purchased by the deceased, the value of such proceeds shall be deemed to be the amount of such proceeds reduced by—

Valuation of proceeds from insurance policy or Tax Reserve Certificates.

- (a) such part of that amount as is available for payment of estate duty; or
- (b) the amount of estate duty that would become payable had the entirety of such amount formed part of the estate of the deceased,

whichever amount is the lower.

**17.** (1) In determining the value of the estate of a deceased person, allowance shall be made, subject as hereinafter provided, for reasonable funeral expenses and for debts and encumbrances incurred or created by the deceased or which, having been charged upon any property forming part of the estate prior to its acquisition by the deceased, whether by way of inheritance, gift, transfer, purchase or otherwise, continued to be so charged at the date of death but an allowance shall not be made—

Deduction for debts, funeral expenses and taxes.

- (a) for debts incurred by the deceased, or encumbrances created by the deceased, unless such debts or encumbrances were incurred or created bona fide for full consideration in money or money's worth wholly for the deceased's own use and benefit and take effect out of his interest; or

CHAPTER V

RELIEFS

- (b) for any debt in respect whereof there is a right to reimbursement from any other estate or person, unless such reimbursement cannot be obtained; or
- (c) more than once for the same debt or encumbrance charged upon different portions of the estate ; or
- (d) for any debts incurred outside Sri Lanka (other than a debt contracted to be paid in Sri Lanka or secured on property situated in Sri Lanka), except to the extent of the amount of the value of the property, if any, of the deceased situated outside Sri Lanka and forming part of the estate of the deceased,

and any debt or encumbrance for which an allowance is made shall be deducted from the value of the property liable thereto.

(2) In determining the value of the estate of a deceased person, allowance shall also be made—

- (a) for any income tax, gifts tax, wealth tax or other like tax, which is payable, under any written law in force in Sri Lanka, by any executor, administrator or other person administering the estate of the deceased, in respect of the profits or income or gifts or wealth of the deceased for any period prior to the date of his death ; and
- (b) for any tax which is payable under any written law in force in any other country in respect of the profits and income for any period of the deceased for any period prior to his death arising or derived from any property forming part of his estate.

**18.** Where the Commissioner-General is satisfied that estate duty has become payable on any property consisting of land or a business (not being a business carried on by a company), or any interest in land or such a business, passing on the death of any person, and that subsequently within five years estate duty has again become payable on the same property, or any part thereof, passing upon the death of the person to whom the property passed on the first death the amount of estate duty payable on the second death, in respect of the property so passing shall be reduced as follows :—

Relief in respect of quick succession where property consists of land or a business.

- (a) where the second death occurs within one year of the first death, by fifty *per centum*;
- (b) where the second death occurs within two years of the first death, by forty *per centum*;
- (c) where the second death occurs within three years of the first death, by thirty *per centum*;
- (d) where the second death occurs within four years of the first death, by twenty *per centum*;
- (e) where the second death occurs within five years of the first death, by ten *per centum*;

Provided that where the value, on which the duty is payable, of the property on the second death exceeds the value, on which the duty was payable, of the property on the first death, the latter value shall be substituted for the former for the purpose of calculating the amount of duty on which the reduction under this section is to be calculated.

**19.** Where property forming part of the estate of the deceased is situated in a foreign country and the Commissioner-General is satisfied that any duty is payable on the

Relief in respect of foreign estate duty.



death of the deceased in that country in respect of that property, he shall in determining the value of such property, allow a deduction of an amount equal to—

- (a) *the* amount of the duty payable in that country; or
- (b) such proportion of the estate duty payable under this Act upon the value of that estate as is equal to the proportion which the value of the property situated in that country bears to the value of the estate,

whichever amount is the lower.

**CHAPTER VI**

**LIABILITY FOR ESTATE DUTY**

Liability of executor.

**20.** (1) The executor of the estate of the deceased shall pay the estate duty in respect of all property of which the deceased was competent to dispose at his death and may pay the estate duty in respect of any other property passing on such death, if the persons liable to pay the duty in respect thereof request him to make such payment; but an executor shall not be liable for any duty in excess of the assets which he has received as executor, or might, but for his own neglect or default, have received.

(2) Where property passes on the death of the deceased, and his executor is not liable to pay the estate duty in respect of such property, every person to whom any property so passes or is deemed to pass and to the extent of the property actually received or disposed of by him, every trustee, guardian, curator, manager or other person in whom any interest in the property so passing or the management thereof is at any time vested, and every person in whom the same is vested in possession by alienation or other derivative title, shall be liable to pay the estate duty on the property, and shall within the time required by this Act, or such later time as may be allowed, deliver to the

Commissioner-General a declaration of property:

Provided that nothing in this section shall render a person liable to pay estate duty who acts merely as agent for another person who is resident in Sri Lanka.

**21.** (1) Subject to the provisions of subsection (2)—

Duty to be a charge on property passing on death of deceased.

(a) the estate duty payable by an executor shall be a first charge on all the property of which the deceased was competent to dispose at his death and such charge may be enforced against any such property for the recovery of the whole or any part of such estate duty ;

(b) the estate duty payable by any person other than the executor in respect of any property shall be a first charge on that property.

(2) Subject as hereinafter provided, the first charge referred to in subsection (1) shall rank in priority over all alienations, leases and encumbrances effected or created before or after the death;

Provided that—

(a) such charge shall not extend to any property sold prior to the date of its seizure in execution of such charge to a bona fide purchaser thereof for valuable consideration without notice;

(b) as regards immovable property, such charge shall not rank in priority over any lease or encumbrance created bona fide for value by an instrument registered prior to the date of death;

(c) as regards movable property, such charge shall not rank in priority over any mortgage or hypothecation of such property created bona fide for value by an instrument registered prior to the date of the death.

(3) Nothing in this Act shall be deemed to create a charge for estate duty on any property situate outside Sri Lanka.

Power to raise estate duty by sale, mortgage or terminable charge.

22. (1) A person authorized or required to pay the estate duty in respect of any property shall, for the purpose of paying the duty, or raising the amount of the duty when already paid, have power, whether the property is or is not vested in him, to raise with the consent of the appropriate District Court, the amount of such duty and any interest and expenses properly incurred or paid by him in respect thereof, by the sale or mortgage of, or a terminable charge on, that property or any part thereof.

(2) A lessee or mortgagee of any property, who pays the estate duty in respect of that property, shall be entitled to the like charge as if the estate duty in respect of that property had been raised by means of a mortgage to him.

Apportionment of burden of estate duty paid.

23. As between the several persons beneficially interested in the property of a deceased person on which the executor is, under the provisions of this Act, authorized or required to pay estate duty, all such duty paid in respect of such property shall be regarded as a debt incurred by the deceased person, and shall, unless such deceased person has otherwise directed by his will, if any, be apportioned among such persons in proportions to the values of their interests in the property of such deceased person.

(2) Where the executor is not liable to pay estate duty in respect of any property passing on the death of a deceased person, the person liable to pay such duty shall, within six months from the date of death of the deceased, deliver to the Commissioner-General a declaration of property containing a full and true statement of particulars relating to such property including the value thereof in such form as may be specified by the Commissioner-General.

25. Where at any time it comes to the notice of any executor or other person liable to pay estate duty that in any declaration of property delivered by him there is an error in that—

Further declaration in case of error.

- (a) property liable to estate duty has been omitted therefrom; or
- (b) property liable to estate duty has been undervalued therein; or
- (c) a deduction has been claimed which is not authorized under this Act,

he shall forthwith deliver to the Commissioner-General a further declaration setting out particulars of such error.

CHAPTER VII

DECLARATIONS

Declarations.

24. (1) The executor of every estate in respect of which the grant of probate or letters of administration is compulsory under the Civil Procedure Code shall, and the executor of any other estate may, within six months from the date of death of the deceased, deliver to the Commissioner-General through the appropriate District Court, a declaration of property containing a full and true statement of particulars relating to the estate of the deceased including the value thereof in such form as may be specified by the Commissioner-General ; and together with such declaration of property he shall deliver to the Commissioner-General a certified copy of the will, if any, of the deceased.

26. (1) An Assessor may give notice in writing to any person who, in his opinion, is able to give information regarding the affairs of any deceased person requiring him within the time specified in such notice, to furnish such particulars as the Assessor may deem necessary for the purpose of making an assessment under this Act.

Assessor may require particulars in certain cases.

(2) An Assessor may give notice in writing to any person who is required by this Act to make a declaration of property or to whom a notice has been addressed under subsection (1) calling upon such person within the time specified in such notice to produce at the time and place fixed by the Assessor any deeds, plans, instruments, books, accounts or documents which the Assessor may deem necessary for the purpose of making an assessment under this Act.

CHAPTER VIII

ASSESSMENTS

Assessments.

**27.** An Assessor may at any time, whether the declaration of property has been delivered or not, assess the estate duty payable in respect of the estate of a deceased person, and shall issue to the person or persons whom he considers liable to pay such estate duty a notice of such assessment.

Time for making assessments and additional assessments.

**28.** (1) An Assessor shall, within one year after the receipt by him of such particulars as he may deem necessary to assess the estate duty in respect of the estate of a deceased person, assess the estate duty payable in respect of the estate and determine the person or persons by whom such duty is payable.

(2) Where it appears to an Assessor that the amount which any person is liable to pay as estate duty has been assessed at less than the proper amount, the Assessor may, at any time prior to the expiration of two years from the date on which an executor or administrator of a deceased person informs the Assessor in writing that probate or letters of administration has been granted in respect of the estate of that deceased person, make an additional assessment of the amount which such person is, in his opinion, liable to pay and communicate to him in writing the reasons for making the additional assessment:

Provided that—

- (a) where the under-assessment is due to fraud or wilful evasion, such additional assessment may be made at any time;
- (b) an Assessor may assess at any time any liability for additional duty which may be brought to his notice by an executor or by any other person liable to pay estate duty under this Act;
- (c) an additional assessment made under this section shall not affect, or create a charge upon, any property mentioned in a certificate issued under section 40 except in the

circumstances referred to in subsection (4) of section 40.

(3) Where an additional assessment of estate duty has been made under subsection (2), an executor shall not, except in the case of fraud, be personally liable for any estate duty under any such additional assessment by reason of having administered or distributed the estate of the deceased without retaining assets to satisfy the duty.

(4) Where an Assessor does not accept a declaration delivered under section 24 by any person and makes an assessment or additional assessment on such person, he shall communicate in writing to such person his reasons for not accepting that declaration.

CHAPTER IX

APPEALS

**29.** (1) Any person who is aggrieved by an assessment made under this Act, whether on the ground that he is not liable to pay estate duty or that the assessment is erroneous, may, within a period of thirty days from the date of the notice of assessment, appeal to the Commissioner-General against such assessment; Appeals to the Commissioner-General.

Provided that the Commissioner-General, upon being satisfied that owing to absence from Sri Lanka, sickness or other reasonable cause, the appellant was prevented from appealing within such period, shall grant an extension of time for preferring the appeal.

(2) Every appeal shall be preferred by a petition in writing addressed to the Commissioner-General and shall state precisely the grounds of such appeal.

(3) Where the assessment appealed against has been made in the absence of a declaration of property, required to be delivered under section 24, the appellant shall deliver a declaration of property together with his petition of appeal.

(4) Every petition of appeal which does not conform to the provisions of subsections (1), (2) and (3) shall not be valid.

(5) The appellant shall, within three months of the date on which he prefers an appeal under subsection (1), transmit to the Commissioner-General a list specifying the documents on which, and the names and designations of the persons upon whose evidence, the appellant proposes to rely in support of his appeal;

Provided that the Commissioner-General may, from time to time, upon application made to him in that behalf by the appellant, extend the period referred to in the preceding provisions of this section.

(6) On receipt of a valid petition of appeal, the Commissioner-General may cause further inquiry to be made by the Assessor, and if in the course of such inquiry an agreement is reached as to the matters specified in the petition of appeal, the necessary adjustment of the assessment shall be made.

(7) Where no agreement is reached between the appellant and the Assessor in the manner provided in subsection (6), the Commissioner-General shall fix a time and place for the hearing of the appeal.

(8) Every appellant shall attend before the Commissioner-General at the time and place fixed for the hearing of the appeal. The appellant may attend the hearing of the appeal in person or by an authorized representative. The Commissioner-General may, if he thinks fit, from time to time adjourn the hearing of an appeal for such time and place as he may fix for the purpose. In any case in which the authorized representative attends on behalf of the appellant, the Commissioner-General may adjourn the hearing of the appeal and may, if he considers that the personal attendance of the appellant is necessary for the determination of the appeal, require that the appellant shall attend in person at the time and place fixed for the adjourned hearing of the appeal. If the appellant or his authorized representative fails to attend at the time and place fixed for the hearing or any adjourned hearing of the appeal, or if the appellant fails to attend in person when required so to attend by the Commissioner-

General, the Commissioner-General may dismiss the appeal;

Provided that if the appellant shall within a reasonable time after the dismissal of an appeal satisfy the Commissioner-General that he or his authorized representative was prevented from due attendance at the hearing or at any adjourned hearing of such appeal by reason of absence from Sri Lanka, sickness, or other unavoidable cause, the Commissioner-General may vacate the order of dismissal and fix a time and place for the hearing of the appeal.

(9) Before making a determination upon any appeal preferred under this section, the Commissioner-General—

(a) may require the appellant to produce for inspection any document included in the list referred to in subsection (5) or call for the evidence of any person mentioned in that list; and

(b) shall consider any evidence which the appellant may desire to adduce before him.

(10) Where the Commissioner-General hears the evidence of the appellant or of any other person in respect of the appeal, he shall maintain or cause to be maintained, a record of such evidence.

(11) In determining an appeal under this section the Commissioner-General may confirm, reduce, increase or annul the assessment appealed against and shall give notice in writing to the appellant of his determination on the appeal.

**30.** (1) At any time within thirty days after the notification by the Commissioner-General of his determination on an appeal, the appellant may file a petition of appeal in the appropriate District Court, naming the Commissioner-General as respondent to his petition. A copy of such petition shall be served on the Commissioner-General. Appeals to District Court.

(2) Where the appellant having filed a petition of appeal fails to serve a copy thereof on the Commissioner-General within thirty days of the date on which such petition was filed, the District Court shall dismiss such petition.

(3) Except with the consent of the Court and subject to such terms as the Court may determine, the appellant shall not be allowed at the hearing of the appeal—

- (a) to produce any document which is not included in the list referred to in subsection (5) of section 29 or to adduce the evidence of any witness who is not mentioned in that list;
- (b) to produce any document which he has failed to produce before the Commissioner-General when required to do so under subsection (9) of section 29 or to adduce the evidence of any witness whose evidence was not tendered to the Commissioner-General when called for under that subsection.

(4) Upon the filing of the petition of appeal and the service of a copy thereof on the Commissioner-General, the appeal shall be deemed to be, and may be proceeded with, as an action between the appellant as plaintiff and the Commissioner-General as defendant and the provisions of the Civil Procedure Code and of the Stamp Ordinance\* shall, subject as hereinafter provided, apply accordingly:

Provided that no pleading other than the petition of the appellant shall be filed in any such action, unless the Court by order made in that action otherwise directs :

Provided, further, that the decree entered in any such action shall specify the amount, if any, which the appellant is liable to pay as estate duty under this Act.

(5) Any party aggrieved by any decree or order of the District Court made on an appeal as hereinbefore provided may appeal against such decree or order in accordance with the provisions of law for the time being in force relating to appeals from judgments and orders of the District Court.

(6) In all proceedings before the District Court or in any other Court as hereinbefore provided, the Commissioner-General shall be deemed to be a Government officer suing or being sued in a suit *virtute officii* and shall not be required to make any deposit or pay any fee or furnish any security prescribed by any written law.

CHAPTER X

FINALITY OF ASSESSMENTS AND PENALTY FOR INCORRECT DECLARATIONS

31. Where no valid appeal has been lodged within the time specified in this Act against an assessment of the estate duty payable in respect of the estate of a deceased person or where an appeal preferred against such an assessment is dismissed under subsection (11) of section 29 or where agreement is reached under section 29 (6) as to the amount of such duty, or where such amount has been determined on appeal, the assessment as made or agreed to or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Act as regards such amount;

Finality of assessments.

Provided that nothing in this section shall prevent an Assessor from making an assessment or additional assessment which does not involve reopening any matter which has been determined on appeal.

32. (1) Where in an assessment made in respect of the estate of any deceased person the value put on any property forming part of the estate exceeds the value put on that property in any declaration delivered in respect of that estate and such assessment is final and conclusive under section 31, the Commissioner-General may, unless the person who delivered that declaration proves to the satisfaction of the Commissioner-General that there was no fraud or wilful neglect involved in the disclosure made by him in that declaration, in writing, order that person to pay on or before a specified date a sum not exceeding the aggregate of two thousand rupees and a sum equal to the estate duty on the amount of the excess as a penalty for making an incorrect declaration.

Penalty for incorrect declarations.

(2) Any person in respect of whom an order is made under subsection (1) may, within twenty-one days after the communication of the order to him, appeal therefrom in writing to the appropriate District Court. The appeal shall state the grounds of objection to the order.

(3) The provisions of section 30 shall as far as possible apply to the hearing and

\* See also the Stamp Duty Act. No. 43 of 1982.

disposal of any appeal under the preceding provisions of this section. The District Court may confirm, reduce, increase or annul the penalty imposed by the order of the Commissioner-General from which an appeal is made, but any increase of such penalty shall not be in excess of the maximum amount which the Commissioner-General could have imposed under subsection (1) as such penalty.

(4) Where a penalty is imposed on any person under this section he shall not be liable to a prosecution for an offence relating to that declaration under paragraph (a) of section 64.

(3) The value of any immovable property transferred in payment of duty under this section shall be the value of that property as determined for the purposes of this Act.

(4) All fees, charges and expenses incidental to, or connected with, the transfer to the Government of any immovable property in payment of estate duty, the examination of title to, and the execution of the deed of transfer of, such property, shall be borne by the applicant.

**35.** (1) Government stock may be surrendered to the Secretary to the Treasury in accordance with the following provisions of this section in lieu of the payment of the whole or any part of any estate duty in cash.

Payment by surrender of prescribed stock.

**CHAPTER XI**

**PAYMENT OF ESTATE DUTY**

Manner of payment of estate duty.

**33.** (1) Estate duty shall be paid in the manner directed in a notice of assessment on or before the date specified in such notice.

(2) Estate duty shall be paid notwithstanding any appeal unless the Commissioner-General orders that payment of the duty or any part thereof be held over to a date specified in such order.

(3) Any estate duty not paid on or before the date specified in the notice of assessment or in any order made under subsection (2) shall be deemed to be in default unless the Commissioner-General has agreed to accept payment of estate duty by instalments.

Payment by transfer of immovable property to the Government.

**34.** (1) Any person liable to pay estate duty under this Act may apply to the Commissioner-General before the date fixed for the payment thereof that immovable property passing on the death of the deceased equivalent in value to the amount of such duty be transferred to the Government of Sri Lanka in lieu of payment of such duty in cash.

(2) No such application shall be granted or refused by the Commissioner-General except with the approval of the Minister.

(2) No stock shall be accepted for the purposes of this section unless—

(a) it is Sri Lanka Government stock which has been issued in Sri Lanka; and

(b) was subscribed for by the deceased himself at the time of its issue, or was purchased by him not less than one year before his death.

(3) Where the stock surrender is fully paid stock, issued and redeemable at par, the surrender of such stock shall be deemed to be equivalent to the payment in cash of an amount equal to the aggregate of—

(a) the face value of such stock ; and

(b) the accrued interest on such stock.

(4) Where the stock surrendered is not fully paid or has been issued below par or is redeemable at an amount above or below par, the surrender of such stock shall be deemed to be equivalent to the payment in cash of an amount equal to the aggregate of—

(a) a sum bearing the prescribed proportion to the face value of such stock; and

(b) the accrued interest on such stock.

In this subsection, "prescribed proportion", in relation to any stock, means such proportion as may be prescribed by the Minister by regulation made under section 74, being a proportion which is not less than the sum originally subscribed for the stock, or the sum payable for the redemption of the stock, whichever of those is the less.

(5) Where the surrender of stock by any person under this section is deemed under subsection (3) or subsection (4) to be equivalent to the payment in cash of an amount which exceeds the estate duty payable by him, the excess shall be disposed of in the following manner:—

- (a) where the amount of the excess is not less than one hundred rupees—
  - (i) each complete sum of one hundred rupees comprised therein shall be reckoned as a unit, and each unit or each group of two or more units, as the Secretary to the Treasury may determine, shall be returned in the form of stock of the same issue as the surrendered stock ; and
  - (ii) any outstanding fraction of a unit shall be returned in cash ; and
- (b) where the amount of the excess is less than one hundred rupees, such amount shall be returned in cash.

Interest on unpaid duty.

**36.** (1) Simple interest shall be paid at the rate of eight *per centum* per annum upon all estate duty unpaid after the expiration of twelve months from the date of death of the deceased and at the rate of twelve *per centum* per annum upon all estate duty unpaid after the expiration of thirty-six months from such date.

(2) Interest shall be calculated for a full period of three calendar months upon the amount of duty unpaid at the commencement of such a period, the first such period commencing on the first of the month subsequent to the expiration of twelve months from the date of death.

(3) Interest payable under this section shall be recovered as though it formed part of the estate duty in default.

(4) Where any person liable to pay any duty satisfies the Commissioner-General on or before the date he is required to pay such duty or any instalment thereof, that he has made arrangements for the payment of such duty or instalment, as the case may be, from any sum to be repaid to the estate of the deceased by the Government of Sri Lanka or from money lying to the credit of the deceased in the National Savings Bank or from moneys to be paid to the deceased from any pension or provident fund approved by the Commissioner-General, the Commissioner-General may grant such person an extension of time for the payment of such duty or instalment, as the case may be, and such duty or instalment, as the case may be, shall be deemed not to be in default until the expiration of such extended time, and no interest shall be payable on such duty or instalment during the period commencing on the date on which such extension is granted and ending on the expiration of the period of extension.

(5) Where interest is payable on that part of estate duty arising on an additional assessment made under section 28 (2) the Commissioner-General may, having regard to the circumstances in which such additional assessment is made, waive or reduce such interest.

(6) Where estate duty has not been assessed, the executor or other person liable to pay duty may pay the Commissioner-General any sum on account of estate duty thereafter to be assessed; and any sum so paid shall on assessment be appropriated against the estate duty due from such person.

**37.** Where under this Act any sum is payable by any person by way of interest and estate duty, any payment made by such person shall be appropriated first to interest and then to estate duty. Allocation of payments.

**38.** (1) If the Commissioner-General is satisfied that the estate of a deceased person consists wholly or mainly of immovable property and that the movable property of Payment by instalments.

the estate available for payment of estate duty is insufficient for such payment, the Commissioner-General may, subject to such terms, conditions and procedure as may be prescribed, accept payment of estate duty in not more than sixteen equal half-yearly instalments, the first of such instalment falling due for payment on a date six months from the date of death of the deceased.

(2) No person shall be permitted to pay estate duty by instalments unless and until he has furnished security for such payment to the satisfaction of the Commissioner-General.

(3) Where a person is permitted to pay estate duty by instalments and fails to pay any such instalment within twenty-eight days after the date on which it falls due, the remaining instalments shall be deemed to be in default and the total amount of estate duty remaining unpaid may be recovered in the manner provided in this Act for the recovery of estate duty in default.

CHAPTER XII

CERTIFICATE OF PAYMENT AND RELEASE

Certificate of payment.

**39.** (1) When any executor shall have paid or secured to the satisfaction of the Commissioner-General the payment of all estate duty for which he is liable, the Commissioner-General shall issue a certificate to that effect to which shall be attached a copy of the declaration of property in respect of which estate duty has been paid or secured.

(2) Where the Commissioner-General is satisfied that any executor is not liable to pay estate duty under this Act, the Commissioner-General shall issue a certificate to that effect to which shall be attached a copy of the declaration of property in respect of which estate duty is not payable.

Certificate of release.

**40.** (1) The Commissioner-General on being satisfied that full estate duty has been or will be paid in respect of all property passing on the death of a deceased person for which the executor is liable to pay estate duty under this Act shall, if required by the

executor, give a certificate to that effect, which shall discharge from any further claim for estate duty the property mentioned in that certificate.

(2) Where a person other than the executor is liable to pay estate duty in respect of any property passing on a death such person may, if the executor has not delivered under section 24 a declaration which includes a reference to that property, furnish to the Commissioner-General a full statement to the best of his knowledge and belief of all property passing on such death and the several persons entitled thereto ; and the Commissioner-General may determine the rate of the estate duty in respect of the property for which the applicant is liable, and on payment of the duty at that rate, that property and the applicant, so far as regards that property, shall be discharged from any further claim for estate duty, and the Commissioner-General shall give a certificate of such discharge.

(3) On the application of the executor or of any person having an interest in any property passing on the death of a deceased person, the Commissioner-General may, on payment of the estate duty payable in respect of that property and the interest thereon together with such additional amount as the Commissioner-General may require him to pay, having regard to the amount of estate duty payable on the other properties forming part of the estate, issue a certificate which shall discharge from any further claim for estate duty the property mentioned in that certificate.

(4) A certificate of the Commissioner-General under this section shall not discharge any person or property from estate duty in case of fraud or failure to disclose material facts, and shall not affect the rate of duty payable in respect of any property afterwards shown to have passed on the death, and the duty on such property shall be at such rate as would be payable if the value thereof were added to the value of the property in respect of which duty has been already accounted for:

Provided that a certificate purporting to be a discharge of the whole estate duty payable in respect of any property included



in the certificate shall exonerate from the estate duty a bona fide purchaser for valuable consideration without notice, notwithstanding any such fraud or failure.

CHAPTER XIII

RECOVERY OF ESTATE DUTY

Facts stated in Commissioner-General's certificate need not be proved,

**41.** Any statement made in any certificate issued by the Commissioner-General shall be presumed to be correct until the contrary is proved; and, in the absence of proof to the contrary, a court shall act on any such statement without requiring further proof thereof.

Probate not to be issued until estate duty is paid.

**42.** No probate or letters of administration shall be granted by the court in respect of the estate of a deceased person until—

- (a) the Commissioner-General has issued the certificate that the estate duty for the payment of which the executor is liable under this Act had been paid or secured, or that the executor is not liable to pay estate duty under this Act; and
- (b) the certificate so issued has been filed in court.

Restriction on payment of certain moneys passing on the death of a deceased.

**43.** Where property passing on the death of a deceased consists of—

- (a) money received under a policy of insurance effected by the deceased on his life, being a policy of insurance within the meaning of section 4 (d); or
- (b) money deposited in any bank or institution or with any person, to the credit of the deceased and any other person,

then, notwithstanding anything in any contract, agreement or written law to the contrary, it shall not be lawful for any person to pay—

- (i) any part of the money referred to in paragraph (a); or
- (ii) more than one-half of the money referred to in paragraph (b),

to any person entitled to such money upon the death of the deceased, unless he obtains a certificate of release from the Commissioner-General.

Collection of money or debts on account of estate duty.

**44.** (1) Where any person proves to the satisfaction of the Commissioner-General that he would, on payment of estate duty, be entitled to probate or letters of administration, and requests the Commissioner-General to collect a sum on account of the estate duty to be paid by such person out of any money or debts forming part of the estate of the deceased, the Commissioner-General may, by notice in writing, require any person or persons who hold such money or owe such debts to pay in the manner and within the period stated in such notice so much of such money or debts as the Commissioner-General may deem sufficient to cover the estate duty payable in respect of the property of the deceased.

(2) Any person to whom a notice is sent by the Commissioner-General in accordance with subsection (1), shall, notwithstanding anything contained in any written law, contract or agreement, comply with such notice to the extent of the money held by him on account of the estate of the deceased, or owed by him to such estate, and is hereby indemnified in respect of any payment made thereunder against all proceedings, civil or criminal.

(3) Nothing in subsection (1) or in subsection (2) shall enable or be deemed to enable the Commissioner-General to collect or recover from any person any debt at any time before the date on which that debt is due to be paid by that person to the estate of the deceased.

(4) Where any sum required to be paid by a notice given under subsection (1) is not paid in accordance with such notice, it shall be recoverable from the person to whom such notice was directed as if such sum were estate duty due from such person and as if such estate duty were in default.

**45.** (1) Where any duty is in default, the Commissioner-General shall, before proceeding to recover such duty in any

Notice to defaulter.

manner hereinafter provided, issue notice in writing to the defaulter stating—

- (a) the particulars of such duty, and
- (b) that action is being contemplated to recover such duty.

(2) If such defaulter has not appealed within the period specified in section 29, against the assessment in respect of which such duty is charged, he may within thirty days of the date of such notice make any objection to the duty so charged, and the Commissioner-General shall, notwithstanding the provisions of section 31, consider such objections and give his decision thereon which shall be final.

Recovery of estate duty by seizure and sale of movable property.

**46.** (1) The Commissioner-General may appoint persons to be collectors of estate duty.

(2) (a) Where any estate duty is in default, the Commissioner-General may issue to a Government Agent, Assistant Government Agent or collector of estate duty a certificate containing particulars of such duty and the name and address of the person by whom it is payable, and the officer to whom such certificate is issued shall be empowered and is hereby required to cause the estate duty to be recovered from the person named in the certificate by seizure and sale of the movable property which passed on the death of the person in respect of whose estate the duty is in default.

(b) A seizure of movable property shall be effected in such manner as the said officer shall deem most expedient in that behalf and, as soon as any movable property is seized by such officer, a list of such property shall forthwith be made and signed by him and shall be given to the defaulter and a copy thereof furnished to the Commissioner-General.

(c) Where the property so seized is—

- (i) cash in Sri Lanka currency, it shall be applied in satisfaction of the duty in default;
- (ii) cash in foreign currency, such cash shall be deposited in the Central

Bank of Ceylon and the proceeds therefrom applied in satisfaction of the duty in default;

- (iii) not cash, such property shall be kept for five days at the costs and charges of the defaulter. If the defaulter does not pay the duty together with the costs and charges within the aforesaid five days, the Government Agent, Assistant Government Agent or collector of estate duty shall cause such property to be sold by public auction or, where such property is a negotiable instrument or a share in any corporation or a public company, to be sold through a broker at the market rate of the day.

(d) The sum realized by a sale referred to in sub-paragraph (iii) of paragraph (c) shall be applied—

- (i) firstly, in payment of the costs and charges of seizing, keeping and selling the property ; and
- (ii) secondly, in satisfaction of the duty in default,

and any balance shall be restored to the credit of the testamentary case.

(3) Whenever the Commissioner-General issues a certificate under this section, he shall at the same time issue to the person named in the certificate a notification thereof by personal service, or by registered letter sent through the post or by telegraph ; but the non-receipt of such notification shall not invalidate proceedings under this section.

**47.** (1) Where any estate duty is in default, the Commissioner-General may issue to the appropriate District Court a certificate, in this Act referred to as a collection certificate, containing particulars of such duty, the name and address of the person by whom it is payable, and a schedule of property by the sale of which the duty may be recovered; the Commissioner-General may also, if he thinks fit, state a price below which the

Recovery of estate duty by seizure and sale of property.

property shall not be sold. The District Court shall thereupon issue a writ to the Fiscal or Deputy Fiscal requiring him to seize and sell the said property or such part thereof as he may deem necessary and at a price that is not below the price, if any, stated by the Commissioner-General, and the provisions of sections 226 to 297 of the Civil Procedure Code, shall, *mutatis mutandis*, apply to such seizure and sale.

(2) The provisions of this section shall have no application in a case in which a decree for the payment of estate duty has been entered by a District Court on an appeal to that court under this Act.

Proceedings for recovery before a Magistrate.

**48.** (1) Where the Commissioner-General is of opinion in any case that recovery of duty in default by seizure and sale is impracticable or inexpedient, or where the full amount of the duty has not been recovered by seizure and sale, he may issue a certificate containing particulars of such duty and the name and last known place of residence of the defaulter to a Magistrate having jurisdiction in the division in which such residence is situate. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of duty should not be taken against him, and in default of sufficient cause being shown, the duty in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment and the provisions of subsection (1) of section 291 (except paragraphs (a), (d) and (i) thereof) of the code of Criminal Procedure Act relating to default of payment of a fine imposed for such an offence shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that subsection he could have made at the time of imposing such sentence.

(2) The correctness of any statement in a certificate issued by the Commissioner-General for the purpose of subsection (1) shall not be called in question or examined by the Magistrate in any proceeding under this section and accordingly nothing in that subsection shall authorize a Magistrate to consider or decide the correctness of any

statement in such certificate or to postpone or defer such proceeding by reason only of the fact that an appeal is pending against the assessment in respect of which the duty in default is charged.

(3) Nothing in subsections (2) to (5) of section 291 of the Code of Criminal Procedure Act shall apply in any case referred to in subsection (1) of this section.

(4) In any case where a fine is deemed under subsection (1) to have been imposed on a defaulter, the Magistrate may allow time for the payment of the amount of that fine or direct the payment of that amount to be made by instalments.

(5) The court may require bail to be given as a condition precedent to allowing time under subsection (1) for showing cause as therein provided or to allowing him time under subsection (4) for payment of the fine; and the provisions of Chapter XXXIV of the Code of Criminal Procedure Act shall apply where the defaulter is required to give bail.

(6) Where payment is directed under subsection (4) to be paid in instalments and default is made in the payment of any one instalment, proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

**49.** (1) Where estate duty payable on the death of a deceased person is in default, and it appears to the Commissioner-General to be probable that any person—

Recovery of estate duty out of debts,&c.

(a) is about to pay any money to an executor for or on account of the estate of the deceased ; or

(b) holds any money for or on account of such estate; or

(c) has authority from some other person to pay any money to an executor for or on account of such estate; or

(d) is liable to pay for or on account of such estate money which, if paid to an executor, is bound to be credited by him to that estate,

the Commissioner-General may give to such person notice in writing requiring him to pay as directed in such notice any such money not exceeding the amount of the estate duty in default. The notice shall apply to such money as is in the hands of the person noticed or is due from him or is about to be paid by him at the date of the receipt of such notice, or comes into his hands or becomes due from him or is about to be paid by him at any time within a period of thirty days after that date.

(2) Any estate duty paid in accordance with this section shall be deemed to have been paid on behalf of another person within the meaning of section 58.

(3) Any person to whom a notice has been given under subsection (1) who is unable to comply therewith owing to the fact that the money in question does not come into his hands or does not become due from him within the period of thirty days referred to in that subsection shall, within fourteen days after expiration of that period, inform the Commissioner-General in writing of the facts by reason of which he is unable to comply with such notice.

(4) Where any person to whom a notice has been given under subsection (1) is unable to comply therewith and has failed to inform the Commissioner-General as required by subsection (3), or where he has deducted or could have deducted the estate duty to which the notice relates or any part thereof and has not paid over as directed by the Commissioner-General the amount of such estate duty or part thereof within fourteen days after the expiration of the period of thirty days referred to in subsection (1), he shall be personally liable for the whole of the estate duty which he has been required to deduct, and the amount of such duty may be recovered from him as a debt due to the State.

Recovery from surviving partners.

**50.** (1) Where a deceased person was at the time of his death a partner in a partnership carrying on business in Sri Lanka, and any estate duty payable in respect of the property passing on the death of such deceased person is in default, the

Commissioner-General may give notice in writing to any person who was at the time of the death a partner in such partnership requiring him to pay as directed in such notice the amount of the estate duty in default or the amount of the deceased person's interest in such partnership, whichever is the less.

(2) Any estate duty paid in accordance with this section shall be deemed to have been paid on behalf of another person within the meaning of section 58.

(3) Where any person fails to comply with a notice given under subsection (1), the amount of the estate duty which is in default, or the amount of the deceased person's interest in the partnership at the time of death, whichever is the less, shall be recoverable from him as if it were estate duty due from him and as if such estate duty were in default.

**51.** The special procedure prescribed by this Act for the recovery of estate duty from any person shall not affect or abrogate or be deemed to affect or abrogate the right of the State to recover any such duty or part thereof in any other manner or by any other procedure available under any written or other law for the recovery of debts due to the State.

Special procedure not to affect right of the State to recover duty in any other manner.

**52.** (1) The Commissioner-General may, by notice given in writing to any person, require that person within the period specified in such notice to furnish any information which the Commissioner-General may require for the purpose of recovering any estate duty due from such person or any other person.

Power of Commissioner-General to obtain information and delegate functions.

(2) The Commissioner-General may, by writing under his hand, delegate to any Assessor any of the powers or functions conferred on, or assigned to, the Commissioner-General by this Chapter.

(3) Every Assessor to whom any power or function has been delegated under subsection (2) shall exercise or discharge that power or function, subject to the general or special directions of the Commissioner-General.

Duty to include fines &c.

53. In this Chapter " duty " means estate duty and includes any interest payable on such duty and any fines, penalties, fees, costs or charges incurred under this Act.

until the contrary is proved, that on the date of the issue of that notice or certificate a person bearing that name was entitled to that official designation; and the name and office of that person shall be judicially noticed.

CHAPTER XIV

MISCELLANEOUS

Signature and service of notice.

54. (1) Every notice given by the Commissioner-General, a Commissioner or a Deputy Commissioner or an Assessor under this Act shall bear the name of the Commissioner-General, Commissioner, Deputy Commissioner or Assessor, as the case may be, and every such notice shall, if the name of the Commissioner-General, Commissioner, Deputy Commissioner or Assessor is duly printed or stamped thereon, be as vaild and effectual as if that notice is signed by such Commissioner-General, Commissioner, Deputy Commissioner or Assessor, as the case may be.

55. The secretary, manager, chairman, or other principal officer of every company or body of persons shall be answerable for doing all such acts, matters and things as are required to be done under the provisions of this Act by such company or body of persons,

Principal officer to act on behalf of a company or body of persons.

Provided that any person to whom a notice has been given under the provisions of this Act as representing a company or body of persons shall be deemed to be the principal officer thereof unless he proves that he has no connexion with such company or body of persons, or that some other person resident in Sri Lanka is the principal officer thereof.

(2) Every notice given by virtue of this Act may be served on a person either personally or by being delivered at, or sent by post to, an address furnished by him for the purpose of service of notices or his last known address or place of abode or to any place at which he is or has been carrying on business:

56. (1) Any act or thing required by, or under this Act to be done by any person shall, if such person is an incapacitated or non-resident person, be deemed to be required to be done by the trustee of such incapacitated person or by the agent or such non-resident person, as the case may be.

Agents and trustees.

Provided that a notice of assessment shall be served personally or by being sent "by registered post to any such address or place as aforesaid.

(2) Where a non-resident person dies, any person who was the agent of such non-resident person at the time of death shall, to the best of his knowledge and belief, furnish to the Commissioner-General all such information and particulars as the Commissioner-General may from time to time require for the purpose of the levy of estate duty under this Act.

(3) Any notice sent by post shall be deemed to have been served on the day succeeding the day on which it would have been received in the ordinary course by post.

57. Where two or more persons, whether in partnership or otherwise, act jointly in any capacity, either on behalf of themselves or of any other person, they shall be jointly and severally answerable for doing all such acts, matters and things as would be required to be done under the provisions of this Act by an individual acting in such capacity.

Persons acting jointly.

(4) In proving service by post it shall be sufficient to prove that the letter containing the notice was duly addressed and posted.

(5) Every notice required by or under this Act to be served on a non-resident person may be served on his agent.

(6) Where any notice or certificate bears the name and official designation of any person and purports to have been issued by him under this Act, it shall be presumed,

58. (1) Every person liable to pay estate duty as trustee, or from whom estate duty is recoverable or has been recovered on

Indemnification of representative.

behalf of another person, may retain out of any assets coming into his possession or control, either on behalf of such other person or in his capacity as trustee, so much thereof as shall be sufficient to produce the amount of such duty, and he shall be and is hereby indemnified against any person whomsoever in respect of his retention of such assets.

(2) Where any person acting as trustee has paid estate duty, and no assets of the trust come into his possession or control out of which he could retain the duty so paid, such duty shall be a debt due from the beneficiaries of the trust to the trustee.

(3) Where estate duty has been paid by or recovered from any person liable to pay estate duty on behalf of another person, and no assets of such other person come into his possession or control out of which he could retain the duty so paid, such duty shall be a debt due to him from such other person.

Certain transactions and dispositions to be disregarded.

**59.** (1) Where an Assessor is of the opinion that any transaction which reduces or would have the effect of reducing the amount of estate duty payable by any person in respect of the estate of a deceased person is artificial or fictitious or that any disposition is not in fact given effect to, he may disregard any such transaction or disposition and shall assess such person accordingly.

(2) In this section "disposition" includes any trust, grant, covenant, agreement, or arrangement.

Renunciation of office of executor.

**60.** A person nominated or appointed as executor in the last will of a deceased person may, if he is unwilling to accept office as executor, apply in writing to the Commissioner-General to be exempted from the obligations and liabilities of an executor under this Act; and the Commissioner-General, if he is satisfied that the applicant has not taken possession of, or intermeddled with, any property of the deceased, may issue a certificate of exemption accordingly:

Provided that any such certificate may be revoked by the Commissioner-General at any time if he is of opinion that the certificate was obtained by fraud or

misrepresentation, or on an incorrect statement of facts, or if the holder of the certificate has at any time after the issue thereof taken possession of, or intermeddled with, the property of the deceased.

CHAPTER XV

REPAYMENT

**61.** (1) If at any time within three years of the date of issue of notice of assessment a claim in writing containing the grounds of such claim is made to the Commissioner-General for the return of any moneys paid as estate duty and it is proved to the satisfaction of the Commissioner-General that such estate duty has been overpaid, it shall be lawful for the Commissioner-General and he is hereby required to return the amount of duty which has been overpaid :

Refund of Estate duty.

Provided that—

- (i) where by reason of any proceeding at law, any debt due from the deceased which might be allowed as a deduction has not been ascertained, and in consequence thereof the executor was prevented from claiming refund of estate duty as aforesaid within the aforesaid term of three years, it shall be lawful for the Commissioner-General to allow such further time as is reasonable for making such claim;
- (ii) nothing in this section shall confer or be deemed to confer on any person—
  - (a) any right to prefer a claim for the return, or any right to a return, of any moneys paid as estate duty, on any ground which has been or could have been raised by such person by way of appeal under this Act;
  - (b) any right of action against the State for the recovery or return of any moneys overpaid as estate duty.

(2) Where any person is entitled to a refund of the amount of any estate duty paid by him and if such amount has not been refunded to him by the Commissioner-General—

- (a) if such refund arises in consequence of the reduction of the amount of an assessment on an agreement with an Assessor under subsection (6) of section 29 or on the final determination of an appeal in respect of an assessment, within a period of six months from the date of such agreement or from the date on which such determination was communicated to such person; or
- (b) in any other case, within a period of six months from the date on which the claim in writing was made by such person to the Commissioner-General for such refund,

then, such person shall be entitled to interest on the amount of the refund which remains unpaid, calculated at the rate of one *per centum* for each complete period of one month for which such amount remains unpaid after the period of six months referred to in paragraph (a) or (b).

CHAPTER XVI

OFFENCES AND PENALTIES

62. Every person who fails to deliver a declaration of property or any other statement whatsoever required to be delivered or furnished by him under this Act shall be guilty of an offence and shall for each such offence be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding five hundred rupees.

63. Every person who fails to comply with a notice issued under section 26, section 49 or section 52 or section 77 shall be guilty of an offence and shall for each such offence be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding five hundred rupees.

Penalty for failure to furnish information, &c.

64. Every person who without reasonable excuse—

Penalty for making incorrect statements, &c.

- (a) omits or understates the value of any property which is or should be included in a declaration of property or in any other statement whatsoever required to be delivered or furnished under this Act; or
- (b) makes any incorrect statement in connexion with a claim to an allowance under section 17; or
- (c) gives any incorrect information in relation to any matter or thing affecting the liability of himself or any other person to pay estate duty,

shall be guilty of an offence and shall for each such offence be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding the total of two thousand rupees and the amount of estate duty, if any, which has been undercharged in consequence of such offence or which would have been so undercharged if such offence had not been detected.

65. Any person who with intent to evade or to assist any other person to evade payment of estate duty—

Provisions relating to fraud.

- (a) omits from any declaration delivered under this Act, any property which should have been included in that declaration; or
- (b) makes any incorrect statement in connexion with a claim to an allowance under section 17; or
- (c) signs any declaration, statement or return delivered or furnished under this Act without reasonable grounds for believing the same to be true; or
- (d) gives or furnishes any false answer, whether verbally or in writing, to any question or request for information asked or made in accordance with the provisions of this Act; or

- (e) prepares or maintains or authorizes the preparation or maintenance of any false book of account or other document; or
- (f) makes use of, or authorizes the use of, any fraudulent device, art, or contrivance,

shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine consisting of—

- (i) a sum equal to twice the amount of estate duty so evaded or attempted to be evaded for which he, or as the case may be, the other person so assisted is liable under this Act; and
- (ii) a sum not exceeding ten thousand rupees,

or to imprisonment of either description for any term not exceeding six months or to both such fine and imprisonment.

**66.** Every person who—

- (i) being a person required to take an oath of secrecy under section 73 (2), acts under this Act without taking such oath; or
- (ii) acts in contravention of the provisions of section 73 (1) or to an oath taken under section 73 (2); or
- (iii) aids, abets, or incites any other person to act contrary to the provisions of this Act,

shall be guilty of an offence and shall for each such offence 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 six months, or to both such fine and imprisonment.

**67.** Every person who contravenes the provisions of section 43 shall be guilty of an offence under this Act and shall, on conviction after summary trial before a Magistrate, be liable to a fine equal to the

amount of the money paid out in contravention of the provisions of that section.

**68.** The Commissioner-General may, having regard to the circumstances in which the offence was committed and at any time before judgment in a prosecution instituted in respect of that offence, compound any offence under this Act.

**69.** The prosecution of any person for an offence under this Act, the conviction of any person of any such offence or the imposition on any person of any penalty, fine, or imprisonment under this Act, shall not affect the liability of any person to be assessed for estate duty or to pay such duty.

**70.** No prosecution in respect of any offence under this Act shall be instituted except at the instance of, or with the written sanction of, the Commissioner-General.

**71.** Where any statement is made, or document is produced, in relation to any matter arising under this Act, by any person who is liable to estate duty under this Act or by his authorized representative, to the Commissioner-General or a Commissioner or a Deputy Commissioner or Assessor, then notwithstanding anything in any written law, such statement or document shall be admissible in evidence in any proceedings against such person in respect of any offence referred to in sections 63, 64 or 65 of this Act.

**CHAPTER XVII**

**ADMINISTRATION**

**72.** (1) The Commissioner-General shall be in charge of the administration of this Act.

(2) The Commissioner-General may authorize, either generally or specially, any Commissioner or Deputy Commissioner or Assessor, to exercise, perform or discharge any power, duty or function conferred or imposed on, or assigned to the Commissioner-General by any provisions of this Act.

Power of Commissioner-General to compound offences.

Estate duty to be payable notwithstanding proceedings for penalties.

Prosecution not to be entered except with sanction of Commissioner-General.

Admissibility of statements or documents.

Breach of secrecy and other matters to be an offence.

Contravention of section 43 to be an offence under this Act.



(3) A Commissioner, Deputy Commissioner or Assessor exercising, performing or discharging any power, duty or function conferred or imposed on, or assigned to the Commissioner-General by this Act shall until the contrary is proved, be deemed for all purposes to be authorized to exercise, perform or discharge that power, duty or function.

(4) A Commissioner or Deputy Commissioner may exercise, perform or discharge any power, duty or function conferred or imposed on, or assigned to, an Assessor by this Act.

Official  
secrecy.

73. (1) Except in the performance of his duties under this Act, every person who has been appointed under or who is or has been employed in carrying out or in assisting any person to carry out the provisions of this Act, shall preserve and aid in preserving secrecy with regard to all matters relating to the estate of any deceased person that may come to his knowledge in the performance of his duties under this Act, and shall not communicate any such matter to any person other than (he executor of such deceased person or the authorized representative of such executor or to the Minister or the Secretary to the Ministry nor suffer or permit any person to have access to any records in the possession, custody or control of the Commissioner-General.

(2) Every person appointed under or employed in carrying out the provisions of this Act shall before acting under this Act, and the Minister and the Secretary to the Ministry may, before acting under this Act, take and subscribe before a Justice of the Peace an oath of secrecy in the prescribed form.

(3) No person appointed under or employed in carrying out the provisions of this Act shall be required to produce in any court any declaration, document or assessment delivered or furnished under this Act or to divulge or communicate to any court any matter or thing coming to his notice in the performance of his duties under this Act, except as may be necessary for the purpose of carrying into effect the provisions of this Act or of any other

written law administered by the Commissioner-General.

(4) Notwithstanding anything contained in this section, any officer of the Department of Inland Revenue may communicate any matter which comes to his knowledge in the performance of his duties under this Act or under any other written law administered by the Commissioner-General—

- (a) to any other officer of that Department, if the communication is necessary for the performance of any duty under this Act or any such other written law, and
- (b) to the Estate Duty Authority of any country to such extent as is necessary to enable such Authority to grant relief from estate duty payable in that country in respect of the estate of a deceased person,

and the Commissioner-General may, produce or cause to be produced in any court in any proceedings under this Act a copy of any particulars contained in any declaration or document delivered or furnished to him under this Act or under any written law administered by him, certified by him or on his behalf to be a correct copy of such particulars and such copy shall, notwithstanding anything in the Evidence Ordinance relating to the proof of documents, be received in evidence ;

Provided that the Commissioner-General may produce or cause to be produced the original of any such declaration or document in any case where it is necessary to prove the handwriting or the signature of the person who wrote, made, signed or furnished such declaration or document, but only for the purpose of such proof:

Provided, further, that the Commissioner-General shall not in any case be compelled to produce in any court either the original of such declaration or document or a copy of any particulars contained in such declaration or document.

(5) Notwithstanding anything in the preceding provisions of this section the Commissioner-General shall—

- (a) produce in any court in which testamentary proceedings relating to the estate of a deceased person have been instituted, any declaration, return or assessment relating to such estate which has been delivered or furnished to him under this Act, if required to do so by such court; and
- (b) furnish all information available to him under this Act relating to the affairs of any person, if required to do so by any such Commission or officer as is referred to in subsection (5) or subsection (6) or subsection (7) or subsection (8) or subsection (9) or subsection (10) or subsection (11) of section 158 of the Inland Revenue Act (No. 28 of 1979).

**CHAPTER XVIII**

**GENERAL**

Regulations.

**74.** (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act, and in respect of any matter which is required or authorized by this Act to be prescribed.

(2) A contravention of, or failure to comply with, a regulation made under subsection (1) shall be an offence under this Act triable summarily by a Magistrate and punishable with a fine not exceeding five hundred rupees.

(3) No regulation made under this section shall have effect until it has been approved by Parliament. Notification of such approval shall be published in the Gazette.

Forms.

**75.** The Commissioner-General may from time to time prescribe forms to be used for all or any of the purposes of this Act.

Public officer to assist Commissioner-General.

**76.** (1) Where the Commissioner-General is of opinion that any public officer is in a position to furnish information

which the Commissioner-General may require for the purposes of this Act, he may by written application request such public officer to furnish such information ; and every such public officer shall furnish the information so required to the best of his knowledge and belief.

(2) Every public officer having in his custody any registers, books, records, papers, documents or proceedings the inspection of which may tend to secure any duty under this Act or to prove or lead to the discovery of any fraud or omission in relation to any such duty, shall at all reasonable times permit any person authorized in writing by the Commissioner-General to inspect for such purpose, any such register, book, record, paper, document and proceeding, and to take such notes and extracts therefrom as he may deem necessary, without the payment of any fee or charge.

(3) In this section, " public officer" includes any officer in the employ of a local authority or a public corporation.

**77.** The Commissioner-General may, by notice in writing, require any person having the care, control, custody, management or possession of any property whether movable or immovable forming part of the estate of a deceased person to permit any public officer named in such notice to inspect such property ; and the person to whom any such notice is addressed shall, upon the receipt thereof, give the public officer named in such notice all facilities for inspecting the property to which that notice relates.

**78.** (1) In this Act, unless the context otherwise requires—

" agent", when used with reference to a non-resident person, includes—

- (a) an attorney, factor or receiver or manager in Sri Lanka; and
- (b) any person in Sri Lanka who has the care, custody, possession, management or control of any property on behalf of such non-resident person;

- "appropriate District Court" means the District Court of Colombo and includes any other District Court having jurisdiction to administer the estate of the deceased or any other District Court by which probate or letters of administration granted outside Sri Lanka have been resealed under the Civil Procedure Code;
- " Assessor " means an Assessor of Inland Revenue appointed for the purpose of the Inland Revenue Act (No. 28 of 1979) and includes a Senior Assessor of Inland Revenue;
- " authorized representative ", when used with reference to a person who is liable to pay estate duty, means an attorney-at-law, a member of the Institute of Chartered Accountants of Sri Lanka, an accountant approved by the Commissioner-General or an individual registered as an Auditor under the Companies' (Auditors) regulations made under the Companies Ordinance\* and is approved by the Commissioner-General;
- "body of persons " includes any local or public authority, any body corporate or collegiate, and any fraternity, fellowship, association, or society of persons, whether corporate or unincorporate;
- " Commissioner-General" means the Commissioner-General of Inland Revenue appointed for the purposes of the Inland Revenue Act (No. 28 of 1979);
- " Commissioner " means a Commissioner of Inland Revenue appointed for the purposes of the Inland Revenue Act (No. 28 of 1979);
- "company" means any company incorporated or registered under any law in force in Sri Lanka or elsewhere,
- " deceased " or " deceased person " means any person dying on or after November 15, 1978;
- " declaration of property" means a declaration delivered under this Act by an executor or other person liable to pay estate duty, for the purpose of the assessment of such duty;
- " Deputy Commissioner " means Deputy Commissioner of Inland Revenue appointed for the purposes of the Inland Revenue Act (No. 28 of 1979);
- " encumbrance" includes mortgages, hypothecations, and terminable charges;
- " estate " means—
- (a) in the case of a deceased person who at the time of his death was domiciled in Sri Lanka, all property which passes on his death wherever situate except immovable property not situate in Sri Lanka; and
  - (b) in the case of a deceased person who at the time of his death was not domiciled in Sri Lanka, all property in Sri Lanka, which passes on his death;
- "estate duty " or " duty " means the duty imposed under this Act;
- " executor" means the executor or administrator of the estate of the deceased person, and includes, as regards any obligation under this Act, any person who takes possession of, or intermeddles with, the property of a deceased person, and any person who has applied or is entitled to apply to a District Court for the grant or resealing of probate or letters of administration in respect of the estate of a deceased person;

\* Repeated and replaced by the Companies Act, No. 17 of 1982.

"incapacitated person" means any minor or person of unsound mind ;

"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;

"non-resident" means not resident in Sri Lanka;

"person", except when used with reference to a deceased person includes a company or body of persons;

"property" includes movable or immovable property of every kind, and the proceeds of sale thereof, and any money or investment or other asset for the time being representing the proceeds of sale ;

"property passing on the death" includes properly deemed to pass on the death and property passing either immediately on the death or after any interval either certainly or contingently, and either originally or by way of substitutive limitation, but does not include property which is exempt from the payment of duty; and the expression "on the death" includes "at a time ascertainable only by reference to the death";

"public corporation" means any corporation, board or 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 ;

"trustee", when used with reference to an incapacitated person, includes any

guardian, curator, manager or other person having the direction, control, or management of any property on behalf of such incapacitated person.

(2) For the purposes of this Act—

(a) a person shall be deemed competent to dispose of property if he has such an estate or interest therein or such general power as would, if he were *sui juris*, enable him to dispose of the property; and the expression "general power" includes every power or authority enabling the donee or other holder thereof to appoint or dispose of property as he thinks fit, whether exercisable by instrument *inter vivos* or by will, or both, but exclusive of any power exercisable in a fiduciary capacity under a disposition not made by himself;

(b) a disposition taking effect out of the interest of a deceased person shall be deemed to have been made by him, whether the concurrence of any other person is or was not required ;

(c) money which a person has a general power to charge on property shall be deemed to be property of which he has power to dispose.

**79.** Nothing in the Estate Duty Ordinance shall apply to, or in relation to, the levy and payment of estate duty upon the value of the estate of any person dying on or after November 15, 1978. Application of the Estate Duty Ordinance.

**80.** (1) Notwithstanding anything in the Estate Duty Ordinance, — Modification of certain provisions of the Estate Duty Ordinance.

(a) the Commissioner-General may reduce or waive any interest incurred on the amount of any estate duty payable under the Estate Duty Ordinance, if he considers that such reduction or waiver is just and equitable in all the circumstances of the case ; and

\* Repealed and replaced by the Companies Act, No. 17 of 1982. See List of Enactments omitted from the Revised Edition.

(b) the value, for the purpose of computing the estate duty payable under that Ordinance upon the value of the estate of any person dying on or after April I, 1977, but prior to November 15, 1978, of any immovable property forming part of any such estate, shall—

(i) if that property had been acquired by the deceased prior to March 31, 1977, be deemed to be the price, which in the opinion of an Assessor, that property would have fetched if sold in the open market on March 31, 1977, increased by an amount equal to the value of any improvements, alterations and additions, if any, made to that property after March 31, 1977, and prior to the date of death of the deceased; and

(ii) if that property had been acquired by the deceased on or after March 31, 1977, but prior to November 15, 1978, be deemed to be the price which in the opinion of an Assessor that property would have fetched if sold in the open market on the date on which it was acquired by the deceased increased by an amount equal to the value of any improvements, additions

and alterations, if any, made to that property after the date on which it was acquired by the deceased and prior to the date of death of the deceased.

(2) Notwithstanding anything in section 49 of the Estate Duty Ordinance\*, where any estate duty payable under the Estate Duty Ordinance\* upon the value of the estate of a person dying prior to November 15, 1978, is in default on November 15, 1979, simple interest at the rate of eight *per centum* per annum shall be paid upon the amount of duty in default from November 15, 1979, to November 15, 1981, or the date of payment, whichever date is earlier, and where any such duty is in default on November 15, 1981, simple interest at the rate of twelve *per centum* per annum shall be paid upon the amount of duty in default from November 15, 1981, to the date of payment.

(3) Where any estate duty payable under the Estate Duty Ordinance\* upon the value of the estate of a person dying prior to November 15, 1978, is in default on the date of commencement of this Act, the amount of such duty may, notwithstanding anything in the Estate Duty Ordinance\*, be collected and recovered under this Act as if such amount were estate duty in default under this Act.

(4) In subsections (2) and (3) "estate duty" includes interest whether incurred under the Estate Duty Ordinance\* or by virtue of this section.

[Section 3.]

SCHEDULE

<i>Column I</i> (Value of the Estate)	<i>Column II</i> (Rate of Duty)
On the first Rs. 100,000 of the value of the estate	nil
On the next Rs. 100,000 of the value of the estate	5 per centum
On the next Rs. 100,000 of the value of the estate	10 per centum
On the next Rs. 100,000 of the value of the estate	15 per centum
On the next Rs. 100,000 of the value of the estate	20 per centum
On the next Rs. 100,000 of the value of the estate	25 per centum
On the next Rs. 200,000 of the value of the estate	30 per centum
On the next Rs. 200,000 of the value of the estate	35 per centum
On the next Rs. 200,000 of the value of the estate	40 per centum
On the next Rs. 200,000 of the value of the estate	45 per centum
On the next Rs. 200,000 of the value of the estate	50 per centum
On the next Rs. 300,000 of the value of the estate	55 per centum
On the next Rs. 500,000 of the value of the estate	60 per centum
On the next Rs. 500,000 of the value of the estate	65 per centum
On the balance of the estate	70 per centum

\* See List of Enactments omitted from the Revised Edition.

CHAPTER 155

EMPLOYEES' HOLIDAYS

Act No. 6 of 1959.

AN ACT TO PROVIDE FOR THE GRANT OF SOME OF THE PUBLIC HOLIDAYS TO CERTAIN CLASSES OF EMPLOYEES AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st October, 1959.]

Short title.

1. This Act may be cited as the Employees' Holidays Act.

provisions of section 4, allow such employee a holiday on each such declared day and be liable to pay, in respect of such holiday, remuneration computed in the prescribed manner.

Determination of such of the public holidays as are to be holidays for certain employees.

2. (1) The Minister may, by Order published in the Gazette, declare that such of the public holidays as may be specified in the Order shall be holidays for all employees or for any specified class or description of employees.

(2) An Order under subsection (1) is hereafter in this Act referred to as a Holidays Order.

(3) A Holidays Order shall not apply to any employee who—

(a) is, within the meaning of the Shop and Office Employees (Regulation of Employment and Remuneration) Act, a person employed in or about the business of any shop or office, or

(b) is a worker in any trade for which a Wages Board has been established under the Wages Boards Ordinance.

3. Where a Holidays Order is in force—

(a) every employee to whom such Order applies shall, subject to such conditions as may be prescribed under paragraph (b) of this section and to the provisions of section 4, be entitled to take and shall take a holiday on each day declared to be a holiday by such Order, and

(b) the employer of every such employee shall, subject to such conditions as may be prescribed and to the

4. (1) Any employee to whom a Holidays Order applies may, with the prior permission of the Commissioner, be employed on any day declared to be a holiday by such Order. Where such employee is employed on such day, his employer shall allow him a holiday, with remuneration computed in the prescribed manner, within such period as may be specified by the Commissioner, or shall pay him in respect of such day remuneration determined at a rate which shall be double the rate at which he would ordinarily have been remunerated in respect of such day if such day had not been declared to be a holiday.

Provision in respect of employees who work on holidays.

(2) The permission referred to in subsection (1) shall, in regard to any holiday, be granted by the Commissioner in respect of any employee, or any class or description of employees, or employees employed by any class or description of employers, if the Commissioner is satisfied—

(a) that such employee or each such employee cannot be allowed such holiday without substantial prejudice to the trade, business, occupation, establishment or institution in which he is employed, or

Liability of employer to allow holidays under a Holidays Order and pay remuneration in respect of such holidays.

- (b) that the trade, industry, business, occupation, establishment or institution in which such employee or each such employee is employed, or the nature of his work therein, is such that the grant of such holiday is likely to cause considerable inconvenience to the public, or
- (c) that the trade, industry, business, occupation, establishment or institution in which such employee or each such employee is employed is essential to the life of the community and he is an essential worker therein.

(3) The permission referred to in subsection (1) may be granted by the Commissioner either specially by means of permits or generally by means of a notification published in the Gazette.

Employer to exhibit notices and maintain records.

**5.** Every employer of employees to whom a Holidays Order applies shall—

- (a) keep conspicuously exhibited in the place where such employees are employed a notice containing such particulars as may be prescribed, and
- (b) maintain in that place such records as may be prescribed.

Inclusion of prescribed particulars in register or record kept under any other written law.

**6.** (1) Where any employer is, by virtue of any other written law, required to maintain any register or record relating to remuneration and hours of work of his employees, he shall, if so required by any regulation made under this Act, include in that register or record such particulars as may be prescribed in respect of any prescribed class or description of such employees.

(2) Where by any regulation made under this Act any prescribed particulars are required to be included in any such register or record as is referred to in subsection (1), that register or record shall, for the purposes of this Act, be deemed to be a register or record maintained under this Act.

Power of entry and inspection.

**7.** Subject to such conditions and restrictions as may be prescribed, the Commissioner of Labour, any Deputy

Commissioner of Labour, any Assistant Commissioner of Labour or any prescribed officer shall have power—

- (a) to enter and inspect at all reasonable hours of the day or night any place in which employees are employed, for the purpose of examining any register or record of wages, any register or record maintained or deemed to be maintained under this Act, or any notice required by this Act to be exhibited, or of ascertaining whether the provisions of this Act 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, record or notice; or
- (d) to interrogate any person whom he finds in such place and whom he has reasonable cause to believe is an employer or an employee engaged or employed in the trade, industry, business or occupation carried on in such place or is an employer or employee in the establishment or institution in such place.

**8.** (1) The Commissioner of Labour may direct an employer to furnish to him before a specified date—

Power of the Commissioner to call for returns.

- (a) a return relating to all his employees or any specified class or description of such employees and containing such particulars as the Commissioner may require for the purposes of this Act; or
- (b) such information or explanation as the Commissioner may require in respect of any particulars stated in

any return furnished by such employer; or

- (c) a true copy of the whole or any part of any register or record maintained or deemed to be maintained under this Act by such employer.

(2) A direction under subsection (1) may be given by notice published in the Gazette and in two or more newspapers circulating in Sri Lanka.

(3) Any employer furnishing any return or information under subsection (1) may transmit at the same time a written request that such return or information should be treated as confidential and, where such a request is made, the return or information to which the request relates shall not be disclosed without the consent previously obtained of the employer who made the request.

(4) No information (whether contained in a return or not) furnished under subsection (1) shall be so arranged, in any report made or publication issued by or with the authority of the Commissioner of Labour, as to facilitate the identification of the information as being information relating to any individual employer or person.

(5) Nothing in the preceding provisions of this section shall be deemed to require or permit any person to disclose the information or to produce any document in any case where the disclosure or production by him of the information or document is prohibited by or under the provisions of any other written law.

Offences.

9. (1) Every person who—

- (a) being an employer, fails to allow an employee any holiday required by this Act to be allowed to that employee or fails to pay remuneration as required by this Act to any employee in respect of such holiday; or
- (b) fails to furnish such means required by any officer specified in section 7 as is necessary for any entry or inspection or the exercise of his powers under such section; or

- (c) hinders or molests any such officer in the exercise of his powers under such section; or

- (d) refuses or fails without reasonable cause to produce any register or record or give any information which any such officer requires him to give under the powers conferred by such section; or

- (e) prevents or attempts to prevent any other person from answering any question put by any such officer to such other person during an interrogation of such other person under such section; or

- (f) makes or causes to be made any register, record or notice which is false in any material particular, or produces or causes or knowingly allows to be produced any such register or record to any officer acting under the powers conferred by such section, knowing such record or register to be false ; or

- (g) furnishes any information to any officer acting under the powers conferred by such section, knowing such information to be false; or

- (h) fails to comply with any direction given by the Commissioner of Labour under section 8, or who, when called upon to furnish any return, information or copy under that section, knowingly furnishes or causes to be furnished any return, information or copy containing any statement which is false in any material particular; or

- (1) commits a breach of any provision of this Act or of any regulation made thereunder.

shall be guilty of an offence and shall be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

(2) On the conviction of an employer under subsection (1) of the offence of failing to allow an employee any holiday required



by this Act to be allowed to that employee or of failing to pay remuneration as required by this Act to such employee in respect of such holiday, the court may, in addition to any other sentence, order the employer to pay such sum as may be found by the court to be due from him to such employee in respect of such holiday; any sum ordered to be paid under this subsection may be recovered in the same manner as a fine.

(3) The power of the court to make an order under subsection (2) for the payment of any sum to any employee shall not be in derogation of any right of that employee to recover such sum by any other proceedings.

Recovery of arrears of remuneration in certain cases.

**10.** (1) Where an employer has been convicted for failing to pay remuneration as required by this Act to any employee in respect of any holiday, then, if a notice in the prescribed form of the 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 remuneration as required by this Act to that employee or to any other employee or employees in respect of any other holiday or holidays during the two years next preceding the date on which complaint under section 136 of the Code of Criminal Procedure Act 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 employee or employees in respect of such holiday or holidays. Any sum ordered to be paid under this subsection may be recovered in the same manner as a fine.

(2) The power of the court to make an order under subsection (1) shall not be in derogation of any right of the employee or employees to recover remuneration due to him or them by any other proceedings.

Burden of proof.

**11.** Where—

(a) any employer is prosecuted for the failure to pay any remuneration to any employee in respect of any holiday, or

(b) in any case in which any employer is convicted for failing to pay any remuneration to any employee in respect of any holiday, evidence is given, under section 10, of any other failure of that employer to pay any remuneration to that employee or to any other employees in respect of any other holiday or holidays,

the burden of proving that such remuneration was paid shall lie on such employer.

**12.** Any contract or agreement, whether made before or after the date on which this Act comes into operation, whereby any right conferred on any employee by or under this Act is in any way affected or modified to his detriment or whereby any liability imposed on any employer by or under this Act is in any way removed or reduced, shall be null and void in so far as it purports to affect or modify any such right or to remove or reduce any such liability.

Contracting out of rights and privileges under this Act.

**13.** No prosecution for any offence under this Act shall be instituted in any court except—

Prosecutions.

(a) with the written sanction of the Commissioner of Labour, and

(b) within two years of the commission of the offence.

**14.** All offences under this Act shall be triable summarily by a Magistrate.

Offences under the Act to be triable summarily.

**15.** (1) The Commissioner of Labour Administration shall be the officer in charge of the general administration of this Act.

(2) Subject to any general or special directions of the Commissioner of Labour, any Deputy or Assistant Commissioner of Labour may exercise, perform or discharge any power, duty, or function of the Commissioner of Labour under this Act or under any regulation made thereunder.

**16.** Regulations may be made exempting from the application of this Act, subject to such conditions as may be prescribed, any

Exemptions from the application of this Act.

class of employees or the employees in any class of trade, industry, business, occupation, establishment or institution.

any trade, industry, business or occupation or in any prescribed establishment or institution, whether or not such establishment or institution carries on any trade, industry, business or occupation, but does not include a domestic servant or an employer's personal chauffeur;

Regulations.

**17.** (1) The Minister may make regulations for the purpose of giving effect to the principles and provisions of this Act, and in particular for matters for which regulations are required by this Act to be made and for matters required by this Act to be prescribed.

(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.

" employer " means any person who on his own behalf employs, or on whose behalf any other person employs, any employee, and includes any person who on behalf of any other person employs any employee;

Interpretation.

**18.** In this Act, unless the context otherwise requires,—

" employee " means a person employed by any employer under a contract, whether oral, written, express or implied, to perform any work in

" prescribed " means prescribed by regulation made under this Act; and

" public holidays " means days appointed to be public holidays by or under the Holidays Act.

**CHAPTER 572**

**ELEPHANT KRAALS**

*Ordinance* AN ORDINANCE TO MAKE PROVISION FOR THE REGULATION OF ELEPHANT KRAALING.  
 No. 1 of 1912,  
*Act*  
 No. 22 of 1955.

[29th April. 1912.]

Short title. **1.** This Ordinance may be cited as the Elephant Kraal Ordinance.

Interpretation. **2.** In this Ordinance, unless there is something repugnant in the subject or context—

"elephant kraal" and "kraal" mean a pen or other enclosure or any kind of stockade erected for the purpose of capturing wild elephants ;

"elephant kraaling" and "kraaling" mean the capture in a kraal of wild elephants, and also all or any of the steps, acts, arrangements, and preparations necessary and intended for the capture in a kraal of wild elephants.

Kraaling prohibited without the sanction of the Minister.

**3.** From and after the coming into operation of this Ordinance elephant kraaling is prohibited, except with the sanction of the Minister, and any person acting in contravention of the provisions of this section shall be guilty of an offence, and liable on conviction 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.

Power to Minister to make rules for the regulation of kraaling.

**4.** (1) The Minister may, by notification in the Gazette, make such rules as to him may appear necessary for the regulation of elephant kraaling.

(2) In particular, and without prejudice to the generality of the power in the preceding subsection contained, such rules may—

(a) prescribe the conditions under which sanction to kraal elephants will be granted under section 3 ;

(b) prescribe the fees payable by an applicant to whom sanction is issued to kraal elephants ;

(c) prescribe the radius from a kraal within which no person, except those designated in the rule, may enter or pass without a permit in writing from the Government Agent of the administrative district within which the kraal is erected ;

(d) prescribe the conditions under which such permit shall be issued ;

(e) prohibit the putting up of huts, stands, or other buildings or erections within a prescribed radius without a permit in writing from the Government Agent aforesaid ;

(f) prescribe the conditions under which such permit shall be issued.

(3) Such rules as aforesaid may be made not only to apply to kraals and elephant kraaling generally, but also to the case of any particular kraal about to be erected, or any particular kraaling operations about to take place at any particular locality.

**5.** Any person committing a breach of the said rules shall be guilty of an offence, and be liable on conviction to a fine not exceeding one hundred rupees, or to imprisonment of either description for a period which may extend to three months, or to both; and it shall be lawful for any police officer not below the rank of inspector, or any person authorized in writing by the Government Agent, without a warrant, to arrest or cause to be arrested any person found within a prohibited area and refusing to quit the same when required

Penalty for infringement of rules.

to do so, and to take him into his custody to be taken before a Magistrate's Court to be dealt with according to law. or to remove or cause to be removed such person outside the prohibited area and to prevent him from re-entering the same, and also to prevent all other persons not legally entitled to do so from entering the prohibited area, and also to remove or cause to be removed all huts, stands, and other buildings unlawfully erected within the same.

6. The provisions of this Ordinance shall not apply to elephant kraaling by any person who by the production of documents or other evidence satisfies the Minister that the right to kraal elephants at any particular locality has been conceded to him by the Government, and obtains a writing under the hand of the Minister certifying to such concession and setting forth the nature and extent of the right conceded.

Ordinance not to apply to kraaling by persons to whom right to kraal at particular localities has been conceded by Government.

**CHAPTER 160**

**ESTATE LABOUR (INDIAN)**

Ordinances Nos.13 of 1889,  
7 of 1890,  
9 of 1909,  
43 of 1921,  
27 of 1927,  
6 of 1932,  
15 of 1941,  
27 of 1941,  
41 of 1943,  
22 of 1945,  
Acts Nos.22 of 1955,  
14 of 1978.

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO INDIAN LABOURERS EMPLOYED ON SRI LANKA ESTATES.

[31 st October, 1889.]

Short title. **1.** This Ordinance may be cited as the Estate Labour (Indian) Ordinance.

" register " means the book required to be kept by section 22 ;

Construction. **2.** This Ordinance shall, so far as is consistent with the tenor thereof, be read and construed as one with the Service Contracts Ordinance.

" spouse ", when used with reference to a labourer, includes the person regarded according to custom as the wife of a male labourer or the husband of a female labourer;

Interpretation. **3.** For the purposes of this Ordinance—

" check-roll " means the record kept on an estate showing the work done by labourers employed under a monthly contract of service with the estate, the wages earned by them, the advances made, and the monthly balance of wages due to them;

" wages " means all sums which may be due to a labourer for and in respect of the work and labour done by him on an estate and shall include sums commonly known as *kangany's* 'head' or 'pence' money.

" employer " means the chief person for the time being in charge of an estate, and includes the superintendent;

" estate " means any land in which labourers are employed, and of which ten acres or more are actually cultivated;

" labourer " means any labourer and *kangany* (commonly known as Indian coolies) whose name is borne on an estate register, and includes the Muslims commonly known as "*Tulicans* " •

**4.** Except as in this Ordinance otherwise expressly provided, all the provisions, regulations, pains, penalties, forfeitures, and abatements enacted in the Service Contracts Ordinance, so far as they are applicable to monthly servants or their employers, shall extend, and be construed, deemed, and adjudged to extend, to labourers and employers under this Ordinance ; and every act or default, by whomsoever done or committed, which is made punishable by the Service Contracts Ordinance, if made or committed in respect of, or in relation to, monthly servants or their employers, shall in the like manner be punishable if done or committed in respect of, or in relation to, labourers and employers under this Ordinance.

Certain provisions of the Service Contracts Ordinance extended to labourers and employers and to acts and defaults of third parties in respect of or in relation to them.

Verbal and implied contracts of service.

5. Every labourer who shall enter into a verbal contract with the employer for the performance of work not usually done by the day or by the job or by the journey, or whose name shall be entered in the check-roll of an estate and who shall have received from the employer any advance of wages in respect of which the employer is authorized, by or under the provisions of any other written law, to make a deduction from the wages of the labourer, shall, unless he has otherwise expressly stipulated, and notwithstanding that his wages shall be payable at a daily rate, be deemed and taken in law to have entered into a contract of hire and service for the period of one month, to be renewable from month to month; and every such contract shall be deemed and taken in law to be so renewed unless one month's previous notice be given by either party to the other of his intention to determine the same at the expiry of one month from the day of giving such notice.

Payment of wages.

6. (1) It shall be the duty of every employer to pay all wages agreed upon or earned by the labourers in his employment in any month on or before the tenth day of the following month.

(2) Where wages are payable at a daily rate, the monthly wages shall be computed according to the number of days on which the labourer was able and willing to work and actually demanded employment, whether the employer was or was not able to provide him with work :

Provided that an employer shall not be bound to provide for any labourer more than six days' work in the week.

(3) When the contract of service is determined by one month's previous notice or warning by the labourer to the employer or by the employer to the labourer all wages due to the labourer for his period of service shall be paid in full to him by the employer on the day when such contract is so determined as aforesaid.

(4) In computing the amount of wages due to a labourer for any period of service, the labourer shall be debited, in accordance with the provisions of any other written law

in force in that behalf, with any deduction authorized to be made from his wages by or under the provisions of such other law.

(5) The wages of a labourer shall not be deemed to have been duly paid, as required by this section, unless the full amount thereof, subject only to the deductions allowed by subsection (4), has been paid directly to the labourer himself.

(6) Where, owing to the absence of any labourer or to any other unavoidable cause, it has not been possible to pay him his wages within the time limited by this section, the employer may retain the sum due to such labourer and shall thereafter pay it to him at the earliest possible opportunity.

(7) Any employer who fails to pay the wages of any labourers in his employment within the period limited by subsection (1) or subsection (3), shall be guilty of an offence, and shall be liable on conviction to a fine which may extend to fifty rupees on a first conviction, and to two hundred rupees on a second or subsequent conviction. If any fine imposed under this section is not paid within twenty-one days of the date when the same is imposed, the Government Agent may recover the amount thereof in the manner provided in Chapter V of the Medical Wants Ordinance.

7. No contract of service entered into with a labourer for any period of time longer than one month shall be valid in law unless the same is executed in all respects in strict accordance with the requirements of the Service Contracts Ordinance as to written contracts; and all written contracts between labourers and employers shall be subject to, and governed by, the provisions of the said Ordinance relating to written contracts.

Written contracts

8. Labourers employed on an estate shall, anything in the Prescription Ordinance to the contrary notwithstanding, have in respect of their wages, whatever the period for which such wages may be due, but not exceeding the sum of forty rupees earned by each labourer, a first charge upon such estate, and such first charge shall have priority over all claims for rents, dues, or

Wages made a first charge on estate.

otherwise by any lessors, mortgagees, judgment, execution, or other creditors, or by any other persons whatever; and such first charge may be enforced by suit or by claim if instituted or preferred within three months of the last day of the period in respect of which such wages are claimed.

counter-claim in respect of any matters other than those specified in the preceding provisions of this section, but shall not be precluded from maintaining a separate action in respect of any matter not so specified.

Wages may be sued for in Primary Courts whatever the amount.

**9.** The wages due to any labourer or labourers, whatever may be the amount claimed, shall be sued for in a Primary Court having in other respects jurisdiction in that behalf.

**13.** It shall be lawful for a mortgagee of an estate to pay and discharge the first charge created by this Ordinance in respect of such estate in favour of the labourers employed thereon; and upon such payment he shall be entitled to add the amount thereof to the sum due upon his mortgage, and the amount so added shall be secured by the mortgage held by him.

Right of mortgagee.

Labourers may sue jointly in one suit.

**10.** It shall be lawful for one or more labourers employed on such estate to institute one suit to recover the wages which may be due, not only to him or them, but also to any other labourer or labourers employed on the same estate whose name or names may appear in the plaint, provided that the court in which the suit is instituted is satisfied, after due inquiry, that the labourer or labourers suing is or are authorized to sue for and on behalf of the other or others so named as aforesaid, and it shall be lawful for the Commissioner of Labour also or for any other person authorized by him in writing for the purpose to institute in like manner on behalf of one or more labourers employed on an estate a similar suit to recover any wages which may be due to them.

**14.** When the proprietor of an estate is sued under this Ordinance, and he shall by proof adduced satisfy the court that he did not by himself or by his agent or agents employ all or any of the labourers who are suing him, but that they or any of them were employed on such estate by some other person as trustee, lessee, or mortgagee in possession, he shall be entitled, upon application by him made for that purpose, to have such other person made a party defendant in the same suit at any time before execution is levied, provided that such other person shall have had reasonable notice of such application, and shall have failed to show cause why he should not be joined in the suit. And the court shall, if satisfied that such other person was primarily liable to pay the amount of wages sued for wholly or in part, and that the same has since the institution of the suit been paid and satisfied by such proprietor, enter a separate judgment therefor as between the proprietor and such other person with such reasonable costs as it may think fit, and enforce such judgment against such other person by a writ of execution:

Proprietor may obtain judgment in same suit against others who have actually employed the labourers.

Proprietor of estate to be party defendant.

**11.** In any suit instituted under this Ordinance it shall be sufficient to designate the defendant as the " proprietor of the . . . . . estate ", specifying the name of the estate on which the labourer had been employed, without naming the proprietor or proprietors thereof.

Party sued may claim set-off,

**12.** The party sued or his representative, or any other person allowed by the court to intervene in such suit, shall be entitled to a set-off or counter-claim in respect of any deduction authorized to be made by or under the provisions of any other written law from the wages for which the labourer or labourers may be suing.

Provided, however, that no proceedings had as between such other person and such proprietor as aforesaid shall be permitted in any way to delay the progress of the suit as between the labourers and such proprietor.

Notwithstanding anything contained in the Civil Procedure Code or any written law (other than this Ordinance), such party or his representative or such other person shall not be entitled in such suit to a set-off or

**15.** The rules and orders in Schedule A shall apply to suits instituted under this Ordinance; and upon any matter not specially provided therein, including the

Procedure.

payment of costs, the general rules and orders for Primary Courts shall be followed in so far as the same may be applicable.

Returns.

16. The Commissioner of Labour may, by Notification published in the Gazette, specify what returns regarding the numbers and conditions of labourers shall be made by employers, periodically or otherwise, and to what public officer such returns shall be made. It shall be the duty of every employer to comply with the provisions of such Notification.

Offences.

17. Any employer who shall refuse or neglect to make any returns by this Ordinance required to be made, in the form and on the days specified, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one hundred rupees ; and the production of a certificate under the hand of the Commissioner of Labour, to the effect that no returns have been received by him from the person charged, shall in all judicial proceedings be prima facie evidence of such person having refused or neglected to make such returns, as the case may be.

Penalty.

Evidence.

Money paid or promised for inducing labourer to quit service not recoverable.

18. Any money which may have been paid or which may be promised to be paid for the purpose of inducing a labourer or attempting to induce a labourer to quit service shall not be recoverable in law.

Immunity of labourers from arrest on civil process.

19. From and after the commencement of this Ordinance no *kangany*, subordinate *kangany*, or labourer shall be liable to arrest under the provisions of the Civil Procedure Code, in execution of a decree for money.

Notice to determine contract of service.

20. A notice or warning of the intention of any labourer to determine his contract of service, if given by any other person on behalf of the labourer, shall not begin to run or be in any way effectual in law, unless and until the labourer has personally or in writing signified to his employer his desire to determine his contract of service.

Declarations that labourers have been duly paid.

21. (1) It shall be the duty of every employer to forward to the Commissioner of Labour in every month a declaration under his hand that the wages of the labourers in his employment have been duly paid as required by this Ordinance.

(2) Every such declaration shall be forwarded so as to reach the Commissioner of Labour not later than the fifteenth day of the month following the month on which such wages were earned.

(3) Where an employer has given notice in writing to the Commissioner of Labour with regard to any estate under his charge that the duty of forwarding the declaration required by this section has been entrusted to an assistant superintendent, such assistant superintendent shall thereupon be bound to comply with the requirements of this section.

(4) Any employer, or any assistant superintendent who is bound as aforesaid to comply with the requirements of this section, who fails in any month to furnish the declaration required by this section within the prescribed time, shall be guilty of an offence, and shall be liable on a first conviction, to a fine which may extend to one hundred rupees, and, on a second or subsequent conviction, to a fine which may extend to two hundred and fifty rupees. [§2.14 of 1978.]

(5) Any employer or assistant superintendent bound as aforesaid who knowingly furnishes a declaration which is false or incorrect in any material particular shall be guilty of an offence, and shall be liable on conviction to imprisonment of either description which may extend to three months, or to a fine not exceeding five hundred rupees, or to both.

22. (1) It shall be the duty of every employer to prepare and keep up to date a complete register of all labourers employed on his estate, whether borne on the check-roll or working on any form of contract. Such register shall be as nearly as material in form I in Schedule B. Duty of employer to prepare and keep a complete register of labourers.

(2) Every employer shall forthwith enter on the register the name of any labourer who shall be taken into employment on his estate, whether on monthly contract of service or any other form of contract. He shall also, whenever a labourer dies or quits service, record the fact and the date thereof in the register.



(3) Any employer who fails to comply with the requirements of subsection (2) shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding twenty rupees.

Duty of employer to issue discharge certificate and penalty for default. [§3,14 of 1978.]

23. (1) At the time any labourer quits the service of any employer it shall be the duty of that employer to issue to that labourer a discharge certificate substantially in form II in Schedule B.

\*(2) Any employer who refuses or neglects to give a discharge certificate to any labourer as required by this section shall be guilty of an offence, and shall be liable on conviction thereof to a fine which may extend to one hundred rupees, and a further fine not exceeding five rupees for every day during which such default shall continue.

Separate room to be provided for each married couple living in the "lines" of an estate.

24. (1) Where, on any estate, housing accommodation is provided by the employer for any labourer who is living with his or her spouse on that estate, the employer shall provide a separate room for such labourer and his or her spouse and shall not compel them to share such room with any person other than a child of such labourer or of his or her spouse.

In this subsection, "child" means a child of or under the age of twelve years and includes an adopted child or an illegitimate child of or under that age.

(2) An employer who acts in contravention of the provisions of subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding one hundred rupees.

Forms to be sent to labourer's employer by Emigration Commissioner.

25. (1) The Emigration Commissioner or other officer authorized by the Commissioner of Labour shall, when a labourer leaves Mandapam Camp or such other camp as may be notified for this purpose in the Gazette by the Minister, for Sri Lanka, fill in the "Personal Particulars" and "Immigration Certificate" on form II in Schedule B, and send the form to the labourer's employer in Sri Lanka who shall preserve the form until the labourer returns to India or is discharged.

(2) Whenever a labourer is about to return to India, his employer shall cause to be filled in the "Identification Certificate" and also, if they have not been previously

filled in, the "Personal Particulars" on form II in Schedule B, and shall deliver the form to the labourer.

(3) Whenever a labourer quits the service of an employer, having given or received the notice or warning required by law, the employer shall cause to be filled in the "Discharge Certificate" and also, if they have not been previously filled in, the "Personal Particulars" on form II in Schedule B, and shall deliver the form to the labourer.

(4) An employer who refuses or neglects to comply with any of the provisions of this section shall on conviction by a Magistrate be liable for each offence to a fine not exceeding fifty rupees.

26. Any person who—

- (a) knowingly prepares or issues a discharge ticket which is false in any material particular; or
- (b) fraudulently makes use of a genuine discharge ticket; or
- (c) knowingly makes any false entry, alteration in or addition to the register required to be kept by this Ordinance; or
- (d) not being an employer as defined in section 3 of this Ordinance issues a discharge ticket in respect of any labourer,

Offences in relation to discharge tickets and registers, of labourers.

shall be guilty of an offence, and shall be liable on conviction thereof to a fine which may extend to one thousand rupees, or to imprisonment of either description for a term not exceeding six months, or to both.

27. The Commissioner of Labour may from time to time make such alterations as he may deem requisite in any of the forms prescribed in Schedule B, or may prescribe new forms to be used in substitution for any of such forms.

Power to alter forms.

28. The Commissioner of Labour or any officer generally or specially authorized by him in writing may institute proceedings in respect of any offence against the Service Contracts Ordinance, the Indian Immigrant Labour Ordinance or this Ordinance.

Commissioner or person authorized by him may institute proceedings.

• Section 23 (3) is repealed by Act No. 14 of 1978.

SCHEDULE A

[Section 15.]

RULES AND ORDERS

Commence-  
ment of suit by  
filing plaint.  
Issue of  
summons to  
defendant and  
subpana to  
superintendent.

1. The suit shall commence by the filing of a plaint setting out the period or proximate period for which wages are due to the plaintiff, or to each of the plaintiffs if there be more than one plaintiff; and thereupon the Registrar shall issue a summons directed to the defendant requiring him to appear before the court on a day therein named, to answer the claim of the plaintiff or plaintiffs, and shall at the same time issue a subpana to the superintendent of the estate requiring him on the same day as that named in 'the summons to attend and bring with him the check-rolls and any other documents which may be specified in such subpana 'and shall at the same time cause a notice in form hereto annexed to be published in the Gazette of the two following weeks.

Service of  
summons  
prescribed;  
superintendent  
may represent  
proprietor.

2. The summons directed to the defendant shall be served upon the superintendent, or, if the Judge so directs, shall be affixed to a conspicuous part of the estate, and such service shall be deemed to be good and sufficient service on the defendant; and in every case the Registrar shall post a copy of such summons to the superintendent directed to such estate. It shall be competent for such superintendent to appear for and represent the defendant in the said suit, and to adduce evidence therein.

Investigation.

3. On the day named in such summons, or on any other day to which the Judge may adjourn or postpone the inquiry, he shall summarily hear and determine the suit and give judgment thereon for such sum or sums as the plaintiff or plaintiffs may be found entitled to; and in determining the sum due to the plaintiff, or if there be more than one plaintiff, the sum due to each of the plaintiffs, the Judge shall take into account any deductions authorized to be made by or under the provisions of any other written law from the wages of the plaintiff or each of the plaintiffs and shall apply the amount of such deductions towards the payment of the antecedent wages in the order of time in which the same became due, and the Judge shall in his judgment specify the extent to which the first charge shall apply, and shall declare the estate bound and executable for and in respect of such first charge :

Provided, however, that if the Judge be satisfied that the sale of any definite portion of the said estate shall be sufficient to satisfy the first charge, he may, in the first instance, order accordingly.

Formal decree.

4. As soon as may be after the judgment is pronounced a formal decree bearing the same date as the judgment shall be drawn by the Judge in the form hereto annexed ; specifying (1) the total amount due to the plaintiffs and (2) the amount for which the estate is bound and executable for and in respect of the first charge.

Two separate  
writs may  
issue.

5. The Judge on non-payment of the amount of the first charge shall issue a writ in the form I hereunto annexed, and on non-payment of the balance (if any) due under the decree shall issue a writ in the form II hereto annexed, which writs may issue simultaneously or independently of each other.

Judgment how  
satisfied.

6. The judgment in the &uit shall not be declared satisfied or discharged save by payment into court of the total amount decreed or by deposit in court of such amount by levy in execution; and when such judgment shall be satisfied by payment into court, or when payment shall be made of the first charge, the Judge shall issue a certificate to that effect under his hand to the person making such payment.

Conveyance by  
fiscal.

7. The Fiscal shall execute a conveyance of the said estate or part thereof on sale in execution in favour of the purchaser in the form hereto annexed, and the same shall be sufficient to vest title in the purchaser free from all encumbrances.

Distribution of  
sum deposited,

8. Upon the payment into or deposit in court of the amount decreed or levied, the Judge shall pay or distribute the same to or among the plaintiff or plaintiffs adjudged to be entitled thereto, and make a record thereof.

Intervention by  
mortgagee,

9. It shall be competent for any mortgagee or any other person interested in the suit to intervene therein, if allowed by the court to do so.

NOTICE

Notice.

Notice is hereby given that a suit has been instituted in the Primary Court of..... by (insert number) labourers of ..... estate, against the proprietor or proprietors thereof, under the Estate Labour (Indian) Ordinance for the recovery of their wages, amounting to ..... rupees.

.....  
Registrar.

This..... day of..... 19.....

FORM OF DECREE

It is ordered and decreed that the proprietor of the ..... estate do forthwith pay into court for Decree. the use of the plaintiffs the sum of..... rupees, and that the said.....estate (or *if a portion only of the estate is declared bound and executable, here describe definitely the said portion of the estate*), bounded or reputed to be bounded on the north by ..... east by ..... south by ..... and west by ..... containing in extent ..... acres, is bound and executable to the plaintiffs for a first charge to the extent of ..... rupees.

It is further ordered and decreed that the proprietor of the said estate do pay to the plaintiffs the costs of this action.

FORM OF WRIT . . I

In the Primary Court of .....

..... Plaintiff.

Vs.

Proprietor of ..... Estate, Defendant.

To the Fiscal of the Primary Court of .....

Whereas by a judgment pronounced by the Judge of the Primary Court of ..... in case Writ of No. .... it was ordered and decreed that the proprietor of the ..... estate do pay into execution court, in the said suit, the sum of..... rupees, and the said ..... estate (hereinafter against estate described) was thereby declared bound and executable for a first charge to the amount of ..... for the charge. rupees; and whereas the proprietor of the said ..... estate hath made default in paying the said amount:

Levy and make of the said estate, bounded or reputed to be bounded on the north by ..... east by ..... south by ..... and west by ..... containing in extent ... acres, declared by the judgment of this court bearing date the ..... day of ..... bound and executable for a first charge to the extend of ..... rupees, by seizure, and, if necessary, by sale thereof (*or part thereof, to be defined*) the sum of ..... rupees, and have that money before this court on the ..... day of ..... to render to the said ..... and inform this court for what sum or sums, and to what person or persons, you have sold the said estate (*or part thereof*), and have you there this mandate.

By order of court,

.....  
Registrar.

FORM OF WRIT . . II

In the Primary Court of .....

..... Plaintiff.

Vs.

Proprietor of ..... Estate, Defendant.

To the Fiscal of the Primary Court of .....

Whereas by a judgment pronounced by the Judge of the Primary Court of ..... in case Writ for No. .... it was ordered and decreed that the proprietor of the ..... estate do pay into balance. court the sum of ..... rupees, of which sum the sum of ..... rupees was declared a first charge on the ..... estate, and the balance sum of ..... rupees has not been paid into court:

Levy and make of the houses, lands, goods, and credits of the proprietor of the said ..... estate, by seizure, and, if necessary, by sale thereof, the sum of ..... rupees, and have the money before this court on the ..... day of ..... to render to the said ..... and inform this court for what sum or sums, and to what person or persons, you have sold the said property respectively, and have you there this mandate.

By order of court,

.....,
Registrar.

FORM OF CONVEYANCE BY FISCAL

Conveyance by Fiscal. Whereas by a judgment pronounced by the Judge of the Primary Court of ..... in case No. .... it was ordered and decreed that the proprietor of the ..... estate do pay into court, in the said suit, the sum of ..... rupees, and the said estate (hereinafter described) was thereby declared bound and executable for a first charge to the amount of ..... rupees : And whereas the proprietor of the ..... estate hath made default in paying the said amount, and by writ of execution issued from the said court bearing date ..... directed to the Fiscal of the Court, he was directed to levy the said amount by the sale of the said estate (or part thereof, as the case may be): and whereas the said estate (or part thereof) was seized in execution under the said writ, and after due notice was exposed to public sale on the ..... day of ..... at ..... by ..... acting under the authority of the said Fiscal, and sold to ..... as the highest bidder for the sum of ..... rupees, and the said ..... has paid the said sum to the said Fiscal:

Now these presents witness that ..... the said Fiscal of the court, in consideration of the said sum of ..... rupees paid by the said ..... the receipt whereof the said Fiscal doth hereby acknowledge, hath sold and assigned, and doth by these presents sell and assign, unto the said ..... his heirs, executors, administrators, and assigns, the ..... estate, bounded or reputed to be bounded on the north by ..... east by ..... south by ..... and on the west by ..... containing in extent ..... acres, and described in the map or diagram annexed, to have and to hold the said estate with its and every of its appurtenances by him the said ..... his heirs, executors, administrators, and assigns, for ever, free from all encumbrances.

In witness whereof the said Fiscal hath hereunto inscribed his name at ..... this ..... day of ..... the year one thousand nine hundred and ...

.....
Signature of Fiscal.

Witnesses.

SCHEDULE B

[Section 22.]

Form I

REGISTER OF LABOURERS

- 1. Serial number, if any, of the labourer's Immigration Certificate:
2. Name:.....
3. Father's name:.....
4. Sex:.....
5. Race and caste :.....

- 6. Approximate age at time of engagement:
- 7. Distinguishing marks and height:.....,
- 8. *Kangany's* name:.....,
- 9. District in India;.....-.....
- 10. Taluk in India:..-.....
- 11. Village in India:.....
- 12. Post Office in India;:-.....,.....,
- 13. Date of engagement:.....,.....
- 14. Date of quitting service:..-.....

*N.B.—1.* All entries in this register must be written in ink,

2. The names of and other details regarding all Indian labourers in the employ of the estate whether on check-rolls, and other accounts, whether they work in the estate or elsewhere and whether they are engaged with or without indentured labour, must be entered in this register as soon as the labourers are engaged. Column 14 must be filled in as soon as a labourer quits service. This register must show at any time the number of Indian labourers in the employ of the estate.

Form II

[Section 23.]

*(This form, when filled in, should be kept at the estate office until labourer is discharged, returns to India, or dies.)*

(i)

PERSONAL PARTICULARS

*To be filled in by the Emigration Commissioner. If the form has been filled in by the Emigration Commissioner, it should be filed in by the employer or his agent when the labourer leaves for India or is discharged.*

- 1. Name:.....
- 2. Father's name;.....
- 3. Sex:.....
- 4. Age.....
- 5. Race and caste;.....-.....
- 6. Distinguishing marks and height:.....
- 7. *Kangany's* name:.....
- 8. District in India:..-.....
- 9. Taluk in India:.....
- 10. Village in India:.....,
- 11. Post Office in India:.....
- 12. Length of habitual residence in Sri Lanka:.....-....
- 13. Whether wife or child joining husband or parent in Sri Lanka.....

(u)

IMMIGRATION CERTIFICATE

To be filled in by the Emigration Commissioner when labourer embarks/or Sri Lanka

Indian Agency: .....

Indian Agency serial number:.....

Date of embarkation from Mandapam:....., 19 .....

(Signature).. .....  
Emigration Commissioner.

(iii)

IDENTIFICATION CERTIFICATE\*

To be filled in by the employer or his agent when the labourer returns to India. The whole form should be handed over to the labourer whenever he proceeds to India.

This labourer is proceeding to India. Should he/she desire to return, I am willing/not willing to re-employ him/her.

..... Estate,

Register No.....

Administrative district:.....

Date:....., 19 .... Employer.

\* If the personal particulars in (i) above have not already been filled in, the employer or his agent should fill them in when making out Identification or Discharge Certificates.

(iv)

DISCHARGE CERTIFICATE\*

To be filled in by the employer or his agent whenever a labourer is discharged.

This labourer was discharged from the under-mentioned estate on .....,19.....

..... Estate,

Administrative District:.....

Date:....., 19 .... Employer.

This labourer was discharged from the under-mentioned estate on .....,19.....

..... Estate,

Administrative district:.....

Date:....., 19..... Employer.

This labourer was discharged from the under-mentioned estate on .....19.....

..... Estate,

Administrative district:.....

Date:.....,19..... Employer.

This labourer was discharged from the under-mentioned estate on .....,19.....

..... Estate,

Administrative district:.....

Date:....., 19..... Employer.

• If the personal particulars in (i) above have not already been filled in the employer or his agent should fill them in when making out Identification or Discharge Certificates.

## CHAPTER 85

### EXECUTION OF DEEDS

*Ordinances* AN ORDINANCE TO PROVIDE FOR THE EXECUTION OF DEEDS WHICH ARE REQUIRED TO BE  
Nos. 17 of 1852, EXECUTED BEFORE AND ATTESTED BY A NOTARY PUBLIC BEFORE AN OFFICER OF  
0 GOVERNMENT INSTEAD OF BEFORE A NOTARY.

[1st July. 1853.]

- Short title. **1.** This Ordinance may be cited as the Deeds and Documents (Execution before Public Officers) Ordinance. Copies or extracts how obtained.
- Deeds relating to land may be executed before a District Judge or Judge of a Primary Court, &c. **2.** Every writing, deed, or instrument which by section 2 of the Prevention of Frauds Ordinance is required to be executed in the manner therein mentioned in order to its validity, shall, if made after this Ordinance shall come into operation, be valid and effectual, so far as relates to the execution thereof, if the same be signed by the party making the same, or by some person lawfully authorized by him, and by two or more witnesses present at the same time, in the presence of some District Judge or Judge of a Primary Court for the district in which the party making such writing, deed, or instrument, or the person signing the same as such attorney, resides, or in the presence of some Justice of the Peace for such district specially authorized by the Minister in charge of the subject of Justice to act in that behalf, and of whose appointment notice shall be given in the Gazette, and if the execution of such writing, deed, or instrument shall be certified at the foot or end thereof under the hand or hand and seal of such Judge or of such Justice authorized as aforesaid, anything contained in the said Prevention of Frauds Ordinance to the contrary notwithstanding. Manner of execution of such deeds.
- They shall be executed in duplicate and registered. **3.** Provided that every such writing, deed, or instrument shall be executed in duplicate, which duplicate shall be delivered or transmitted by such Judge or Justice to the Registrar of Lands in accordance with section 4 of the Registration of Documents Ordinance to be by him registered and preserved in the Land Registry in like manner as notarial deeds of a similar description; and all persons interested in any such deed shall be entitled, on furnishing the proper stamp, to demand a copy or extract of such deed, certified as correct by the said Registrar of Lands, for which copy or extract a fee of two rupees shall be paid to the said Registrar of Lands who shall pay the same into the Treasury. **4.** No such Judge or Justice as aforesaid shall be authorized to certify the execution of any such writing, deed, or instrument unless the same, and the duplicate thereof, shall be duly stamped as required by law, nor until the same shall have been read over and explained to the party making the same, and to the witnesses thereto, by or in the presence of such Judge or Justice as aforesaid, nor unless the same, and the duplicate thereof, shall be legibly written or engrossed, without erasures therein, nor unless the party making such writing, deed, or instrument shall be known to such Judge or Justice as aforesaid, or to at least two of the attesting witnesses thereto, who shall make a declaration to that effect before him. Form of certificate.
- 5.** Every such Judge or Justice as aforesaid shall insert in I his certificate of the execution of every such writing, deed, or instrument, the day, month, and year on which and the place where the same is executed, together with the names and residences of the attesting witnesses; and such certificate shall be in the following form of words, or in any other form of words to the same effect; that is to say,
- I, A. B., Disirict Judge of (or as the case may be), hereby certify that the above-written deed was signed by the within-named (insert the name of the party making the deed), the maker thereof, and by

**EXECUTION OF DEEDS**

**[Cap.85**

..... of..... and  
..... of..... the  
attesting witnesses thereto, in my presence and in  
the presence of one another, at .....  
on the ..... day of..... ,  
19 .....

this Ordinance shall be liable on conviction thereof to a fine not exceeding two hundred rupees.

Signature                    A.B..  
Seal                         District Judge.

**7.** No such Judge, and no such Justice authorized by the Minister in charge of the subject of Justice as aforesaid, and no secretary, clerk, interpreter, or other officer of any court presided over by such Judge shall draw up, write, or engross any writing, deed or instrument to be executed under the provisions of this Ordinance, or any duplicate thereof; and any such officer who shall draw up, write, or engross any such writing, deed, or instrument, or the duplicate thereof, contrary to the true intent and meaning of this Ordinance, shall be liable on conviction to a fine not exceeding two hundred rupees.

Deeds not to be written by such Judges, &c., or by the officers of their courts.

Penalty.

No fees to be taken.

**6.** No fee or gratuity shall be received or taken by any such Judge or by any such Justice authorized by the Minister in charge of the subject of Justice as aforesaid, of or from any person whomsoever for certifying the execution of any such writing, deed, or instrument, or for any act done or to be done by any such Judge or Justice under this Ordinance; and any such officer who shall receive or take any fee or gratuity contrary to the true intent and meaning of

Penalty.



CHAPTER 147

EMPLOYMENT OF FEMALES IN MINES

Ordinance.  
No. 13 of 1937.

AN ORDINANCE TO PROHIBIT THE EMPLOYMENT OF FEMALES ON UNDERGROUND WORK IN MINES.

[16 th April, 1937.]

Short title.

1. This Ordinance may be cited as the Mines (Prohibition of Female Labour Underground) Ordinance,

4. (1) The Minister may make regulations for or in respect of all or any of the following matters :—

Regulations.

Prohibition of employment of females on underground work in mines.

2. (1) No female, of any age, shall at any time—

- (a) perform or be employed on any underground work in any mine; or
- (b) enter or remain in the underground parts of any mine for the performance of any work therein.

(2) Nothing in subsection (1) shall apply to any female or any class of females exempted by regulation from the prohibition contained in that subsection.

(a) the definition or description of any class of females which may be exempted under section 3 ;

(b) the issue to females of any class exempted under section 3 of permits to enter, work, or remain in the underground parts of any mine;

(c) the terms and conditions upon which and the persons by whom such permits shall be issued ;

(d) the inspection of mines for the purpose of giving effect to the provisions of this Ordinance or of any regulation made thereunder; and

(e) all matters incidental to or connected with the matters or subjects specifically referred to in this subsection.

Power of Minister to exempt classes of females from operation of section 2(1)

3. The Minister may, by regulation, exempt from the prohibition contained in section 2 (1) all or any of the following classes of females :—

- (a) females holding positions of management who do not perform manual work;
- (b) females employed in health and welfare services ;
- (c) females who in the course of their studies spend a period of training in the underground parts of a mine;
- (d) any other females who may occasionally have to enter the underground parts of a mine for the purpose of a non-manual occupation,

(2) 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.

(3) 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.

Offences.

**5.** (1) Any person who contravenes any of the provision-; of This Ordinance or of any regulation made thereunder shall be guilty of an offence.

(2) In the event of the contravention by any person of any of the provisions of this Ordinance or of any regulation made thereunder, the owner, agent and manager of the mine shall each be guilty of an offence unless he proves that he had taken all reasonable means to prevent such contravention, by publishing and to the best of his power enforcing the provisions of this Ordinance and the regulations made thereunder.

Penalties.

**6.** Every person who is guilty of an offence under this Ordinance shall be liable to a fine not exceeding fifty rupees, and if any such person is the owner, agent or manager of a mine, such person shall, on

conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees.

**7.** In this Ordinance, unless the context otherwise requires—

" mine" includes any undertaking, whether public or private, for the extraction of any substance from under the surface of the earth;

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

**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 the employment of females in mines in so far as such other written law is not inconsistent with the provisions of this Ordinance. Application of ordinance.

**CHAPTER 148**

**EMPLOYMENT OF PRIVATE SECTOR TRAINEES**

Act  
No. 8 of 1978.

AN ACT TO PROVIDE FOR EMPLOYERS OF WORKMEN IN THE PRIVATE SECTOR TO ENTER INTO CONTRACTS OF TRAINING WITH PERSONS ON CERTAIN TERMS AND CONDITIONS; TO GUARANTEE EMPLOYMENT FOR THE TRAINEES AFTER THE CONCLUSION OF THE PERIOD OF TRAINING UNDER THE CONTRACT; AND TO PROVIDE FOR CONNECTED MATTERS.

*[1 st May, 1978.]*

Short title.

**1.** This Act may be cited as the Employment of Trainees (Private Sector) Act.

(b) forty-five hours in any one week.

Contracts of training.

**2.** Without prejudice to any scheme of training of, or to the employment of, apprentices in any other law, an employer of workmen in the private sector (hereafter in this Act referred to as the "employer"), may enter into a contract of training with any trainee for such period not exceeding one year as may be determined by the employer on terms and conditions hereafter set out in this Act, for the purpose of providing practical training to the trainee in any vocation specified in column I of the Schedule to this Act.

**5.** Where a trainee is engaged by the employer to work after or in excess of the normal hours of work, the employer shall pay the trainee an overtime allowance calculated at the rate of one and a half times the normal hourly rate of the allowance payable to him under section 3(1). Overtime allowance.

Allowance payable to a trainee.

**3.** (1) Every employer who has entered into a contract of training with a trainee under section 2 shall during the period of training, pay the trainee such allowance, specified in column II of the Schedule to this Act, as may be applicable to the vocation specified in the corresponding entry in column I of that Schedule, for which the trainee is being trained.

**6.** On the ground of ill health, a trainee shall during the period of training be entitled to leave, with full allowances payable to him, for a period, or aggregate of periods, not exceeding seven days, if the application for leave is supported by a medical certificate issued by a registered medical practitioner. Medical leave.

(2) A trainee shall not be entitled to receive during the period of training any salary, wage or allowance other than the allowance payable to him under subsection (1) or an allowance that may be paid to him under section 5.

**7.** The provisions of the Shop and Office Employees (Regulation of Employment and Remuneration) Act, the Industrial Disputes Act, the Wages Boards Ordinance, the Trade Unions Ordinance, the Termination of Employment of Workmen (Special Provisions) Act, and any collective agreement relating to a vocation specified in column I of the Schedule to this Act, shall not apply to a trainee during the period of training. Certain laws and collective agreements not trainees.

Hours of work of a trainee.

**4.** The normal hours of work for a trainee shall not exceed—

(a) nine hours (inclusive of an interval of one hour for meals) in any one day; and

**8.** (1) The provisions of the Workmen's Compensation Ordinance relating to compensation to be paid to a workman on account of injury or death by accident shall apply to a trainee as if he were a workman within the meaning of that Ordinance. Certain laws to apply to trainees and employees.

(2) The provisions of the Employees' Provident Fund Act relating to the payment of contributions to the Employees' Provident Fund established under that Act shall apply to every employer and trainee as if they were respectively an employer and employee under that Act.

(c) the prevention of abuse of the terms and conditions of a contract of training; and

(d) powers of entry into, and inspection of, places of training of trainees or places where registers and returns relating to trainees are kept.

Guarantee of employment to trainees.

**9.** The employer shall, at the conclusion of the period of training, provide employment to the trainee in a vocation specified in column I of the Schedule to this Act, for which he has been trained or in the alternative find him other suitable employment.

(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.

Termination of contract of training.

**10.** (1) An employer may terminate a contract of training under this Act-

(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.

(a) in the exercise of disciplinary control over the trainee; or

(b) with the permission of the Commissioner of Labour if, in the opinion of the employer, the trainee has failed to acquire the required degree of proficiency for employment in the vocation for which he is being trained.

(5) The date on which any regulation shall be deemed to be so rescinded shall be published in the Gazette.

(2) A trainee may, after giving thirty days' notice to the employer, or in lieu of the notice, on the payment to the employer of the allowance (if any) paid to him in the preceding month, terminate the contract of training.

**12.** (1) An employer who fails to pay a trainee any allowance payable to him under this Act or contravenes the provisions of section 9, shall be guilty of an offence and shall be liable on conviction by a Magistrate to a fine not exceeding one thousand rupees or to imprisonment not exceeding six months or to both such fine and imprisonment.

Regulations.

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

(2) Where an employer is convicted under subsection (1) for failure to pay any allowance to a trainee, the Magistrate may in addition to any other penalty which he may impose for the offence, order the employer to pay the sum due as allowance to the trainee and such sum shall if not paid by the employer be recovered as a fine imposed by the Magistrate and paid when so recovered to the trainee.

(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 preparation and maintenance of a register of trainees and the taking of copies of the whole or any part of the register;

(b) the making and furnishing of returns by employers and the taking of copies of the whole or any part of a return;

(3) In a prosecution for an offence under subsection (1) any register maintained or a return made by an employer shall be admissible in evidence and shall, as against the employer, be prima facie evidence of the particulars stated therein.

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Offences by bodies of persons.

**13.** Where an offence under this Act is committed by a body of persons—

- (a) if that body is a body corporate, every person who at the time of the commission of the offence was a director, secretary or other similar officer of that body; or
- (b) if that body is not a body corporate, every person who at the time of the commission of that 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 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.

This Act to prevail.

**14.** 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.

**15.** In this Act, unless the context otherwise requires—

" collective agreement " has the same meaning as in the Industrial Disputes Act;

" Commissioner of Labour " means the person for the time being holding the office of the Commissioner of Labour and includes a Deputy Commissioner of Labour or an Assistant Commissioner of Labour;

" employer " includes a body of employers whether that body is a body corporate or not;

" hourly rate " means the rate obtained by dividing the monthly rate payable to a trainee by 240 or the daily rate payable to a trainee by 8, as the case may be;

" registered medical practitioner " means a medical practitioner registered under the Medical Ordinance or an ayurvedic practitioner registered under the Ayurveda Act;

" trainee " means a person with whom an employer enters into a contract of training under section 2.

[Sections 2 and 3.]

**SCHEDULE**

Column I

Column II

VOCATIONS

ALLOWANCE

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. Clerks, stenographers, bookkeepers, typists, supervisors, salesmen, shop assistants, storekeepers, telephone operators, cashiers, foremen or any other similar vocation.</li> <li>2. Watchers, caretakers, bicycle orderlies, peons, liftmen, office and shop labourers, outside messengers, tea boys or other similar vocation.</li> <li>3. Any vocation in a factory or in any trade for which a Wages Board has been established under the Wages Boards Ordinance other than a vocation specified in items 1 and 2.</li> </ol> | <p>Two hundred and seventy-five rupees per month.</p> <p>Two hundred and forty rupees per month or ten rupees per day for each day on which he is engaged.</p> <p>One hundred and eighty rupees per month or seven rupees and fifty cents per day for each day on which he is engaged.</p> |
|---|--|

**Cap.624] EMPLOYEES' PROVIDENT FUND (SPECIAL PROVISIONS)**

**CHAPTER 624**

**EMPLOYEES' PROVIDENT FUND (SPECIAL PROVISIONS)**

Law  
No. 6 of 1975.

A LAW TO PROVIDE FOR A UNIFORM SCHEME OF SUPERANNUATION BENEFITS FOR ALL EMPLOYEES IN THE PRIVATE SECTOR, AND FOR MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH.

*[Not in operation on 31st December, 1980.]*

Short title  
and date  
of operation.

**1.** This Law may be cited as the Employees' Provident Fund (Special Provisions) Law, and shall come into operation on such date as the Minister may appoint by Order published in the Gazette (hereinafter referred to as the "appointed date").\*

or giving effect to the principles and provisions of this Law.

No  
contribution  
to be made  
by any  
employee or  
employer in  
any covered  
employment  
to any fund  
other than the  
Employees'  
Provident  
Fund.

**2.** (1) No person who, on or after the appointed date, becomes an employee in any covered employment shall, for the purpose of securing any superannuation benefits, be a member of, or pay a contribution to, any provident fund, pension fund or any other superannuation fund or scheme, other than the Employees' Provident Fund established under the Employees' Provident Fund Act.

(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.

(2) No person who, on or after the appointed date, employs any other person in any covered employment shall for the purpose of providing superannuation benefits to such employee, pay a contribution, in respect of such employee, to any provident fund, pension fund or any other superannuation fund or scheme other than the Employees' Provident Fund established under Employees' Provident Fund Act.

(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.

(5) 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.

No superannua-  
tion fund or  
scheme to be  
established by  
an employer in  
any covered  
employment.

**3.** No person who on or after the appointed date employs any other person in any covered employment shall establish any provident fund, pension fund or any other superannuation fund or scheme for the purpose of providing superannuation benefits to his employees.

**5.** (1) Every person who contravenes or fails to comply with any provision 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. Offences and penalties.

Regulations.

**4.** (1) The Minister may make regulations for the purpose of carrying out

(2) Every person who commits an offence under this Law shall on conviction after trial before a Magistrate be liable to imprisonment of either description for a

\* Not in operation on 31st December, 1980.

**EMPLOYEES' PROVIDENT FUND (SPECIAL PROVISIONS) [Cap. 624**

period not exceeding six months or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

(3) Where an offence under this Law is committed by a body of persons, whether corporate or unincorporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of such body of persons, and where such body of persons is a firm every partner of that firm 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 having regard to the nature of his functions and in all the circumstances.

6. The provisions of this Law shall have effect notwithstanding anything contained in any other written law, award, collective agreement or other arrangement, and accordingly in the event of any conflict or inconsistency between the provisions of this Law and such other law, award, collective agreement or other arrangement, the provisions of this Law shall prevail over such other law, award, collective agreement or other arrangement.

This Law to prevail over other written law, award, collective agreement or arrangement.

7. In this Law, unless the context otherwise requires,—

Interpretation

"covered employment" and "employee" shall have the same meanings respectively as in the Employees' Provident Fund Act.

## CHAPTER 52

### ESSENTIAL PUBLIC SERVICES

Act  
No. 61 of 1979.

AN ACT TO PROVIDE FOR THE DECLARATION OF SERVICES PROVIDED BY CERTAIN GOVERNMENT DEPARTMENTS, PUBLIC CORPORATIONS, LOCAL AUTHORITIES AND CO-OPERATIVE SOCIETIES AS ESSENTIAL PUBLIC SERVICES ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[8th October, 1979.]

Short title.

**1.** This Act may be cited as the Essential Public Services Act.

President may declare services provided by certain Government departments, public corporations, local authorities or co-operative societies to be essential public services.

**2.** (1) Where the President is of the opinion that—

- (a) any service provided by any category of persons employed in any Government department or public corporation or local authority or co-operative society or branch thereof being a department or corporation or local authority or co-operative society which is engaged in the provision of any of the services specified in the Schedule to this Act, is likely to be impeded or interrupted ; and
- (b) the maintenance of the service provided by that category of persons is essential to the life of the community,

he may, in consultation with the appropriate Minister and by Order published in the Gazette, declare that service to be an essential public service.

(2) During the continuance in force of an Order made under subsection (1) declaring the service provided by any category of persons employed in a Government department or public corporation or local authority or co-operative society or branch thereof being a department or public corporation or local authority or co-operative society engaged in the provision of any of the services specified in the Schedule to this Act, to be an essential public service—

- (a) any person who, on the day immediately preceding the date of such Order, was employed in that department or public corporation or local authority or co-operative society for the purposes of that service or who after that date is employed by that department or public corporation or local authority or co-operative society for the purposes of that service, fails or refuses to attend at his place of work or at such other place as may from time to time be designated by the head of that department or public corporation or local authority or co-operative society or a person acting under the authority of such head or fails or refuses to perform such work as he may be directed by the head of the department or public corporation or local authority or co-operative society or by a person acting under the authority of such head to perform or fails or refuses to perform such work within such time as is in the opinion of the head of that department or public corporation or local authority or co-operative society reasonable for the performance of such work, or
- (b) any person who in any manner—
  - (i) impedes, obstructs, delays or restricts the carrying on of that service; or
  - (ii) impedes, obstructs or prevents any other person employed in that department or public



corporation or local authority or co-operative society for the purposes of that service from attending at his place of work; or

(iii) incites, induces or encourages any other person employed in that department or public corporation or local authority or co-operative society for the purposes of that service to refrain from attending at his place of work; or

(iv) compels, incites, induces or encourages any other person employed in that department or public corporation or local authority or co-operative society for the purposes of that service to depart from his place of work; or

(v) prevents any other person from accepting employment in, or in connection with, the carrying on of that service; or

(c) any person who, by any physical act or by any speech or writing incites, induces or encourages any other person to commit any act specified in paragraph (b) of this subsection (whether or not such other person commits in consequence any act so specified),

shall be guilty of an offence under this Act.

Operation, &C., of Order made under section 2 (1).

3. (1) Every Order made under subsection (1) of section 2 shall come into operation on the date of its publication in the Gazette and shall, subject to the succeeding provisions of this section, be in operation for a period of one month from such date, without prejudice however, to the earlier revocation of that Order or to the making of a further Order at or before the end of that period.

(2) Upon the publication in the Gazette of an Order made under subsection (1) of section 2, such Order shall be placed forthwith before Parliament and where Parliament is on the date of publication of

that Order in the Gazette separated by any such adjournment or prorogation as will not expire within ten days, a Proclamation shall be issued for the meeting of Parliament within ten days from the date of publication of such Order and Parliament shall accordingly meet and sit upon the day appointed by that Proclamation, and shall continue to sit and act in like manner as if it had stood adjourned or prorogued to that day.

(3) Every Order made under subsection (1) of section 2 shall expire after a period of fourteen days after the publication of such Order in the Gazette, unless such Order is approved by a resolution of Parliament;

Provided that if Parliament is on the date of publication of such Order in the Gazette separated by any such adjournment or prorogation as is referred to in subsection (2), then such Order shall expire at the end of a period of ten days from the date on which Parliament shall meet and sit, unless approved by a resolution of Parliament at such meeting.

4. (1) Every person who commits an Offences. offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to rigorous imprisonment for a term not less than two years and not exceeding five years or to a fine not less than two thousand rupees and not exceeding five thousand rupees or to both such imprisonment and fine.

(2)\*Where a person is convicted by any court for an offence under this Act, the court may, in addition to any other penalty that it imposes under subsection (1), make one or both of the following orders :—

(a) that all property, movable or immovable, of the person convicted shall be forfeited to the Republic;

(b) in any case where the person convicted is registered in any register maintained under any written law as entitling such person to practise any profession or vocation, that the name of such person be removed from; such register,

if the court is of opinion that there are sufficient grounds for the making of any such order.

(3) Where the court makes order under paragraph (a) of subsection (2) in respect of any person, every alienation or disposal of property made by such person after the date of publication of an Order under subsection (1) of section 2 in relation to any service provided by such person, shall be deemed to have been, and to be, null and void.

"head"—

- (a) in relation to a co-operative society, means the President of that co-operative society;
- (b) in relation to a local authority, means the Mayor or Chairman of that local authority or the Special Commissioner appointed to administer the affairs of that local authority; and
- (c) in relation to a public corporation, means the Chairman of the Board of Directors of such corporation and includes the General Manager of that corporation;

Application of section 15 (2) of Code of Criminal Procedure Act.

5. Subsection (2) of section 15 of the Code of Criminal Procedure Act shall not apply to any person convicted of an offence under this Act.

Actor omission committed or omitted to be done in furtherance of a strike not a defence in any prosecution under this Act.

6. Where any person is prosecuted for an offence under this Act, it shall not be a defence for him to prove that any act or omission constituting the offence was done or omitted to be done by him in furtherance of a strike commenced by a trade union to which such person belongs.

This Act to prevail over other written law.

7. 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.

" 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;

Interpretation.

8. In this Act—

" co-operative society " means any society registered or deemed to be registered under the Co-operative Societies Law;

" 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.

**SCHEDULE**

- 1. The supply, preservation and distribution of articles of food or drink.
- 2. The supply or distribution of fuel, including petroleum products and gas.
- 3. The supply of electricity.
- 4. Public transport services for passengers or goods.
- 5. Water supply.
- 6. Postal, telephone, telegraph and broadcasting services.

\* Repealed and replaced by the Companies Act, No. 17 of 1982.

7. All service, work or labour, of any description whatsoever, necessary or required to be done in connection with—
- (a) the discharge, carriage, landing, storage, delivery and removal of articles of food or drink, or of coal, oil or fuel, from vessels within any port as defined for the purposes of the Customs Ordinance ;
  - (b) the maintenance, and the reception, care, feeding and treatment, of patients in hospitals, nursing homes, dispensaries, and other similar institutions ;
  - (c) any undertaking maintained by any local authority for water supply, electricity, drainage and sewerage, fire and ambulance services, conservancy and scavenging (including the removal and disposal of night-soil);
  - (d) the provision and maintenance of facilities for transport services by road, rail or air, including roads, bridges, culverts, airports, ports and railway lines.
8. The services provided by all Co-operative Societies and Unions.

CHAPTER 161

ESTATE QUARTERS

Act No. 2 of 1971. AN ACT TO MAKE SPECIAL PROVISIONS IN RESPECT OF QUARTERS PROVIDED ON ESTATES BY EMPLOYERS TO THE EMPLOYEES W SUCH ESTATES.

[21 st January, 1971.]

Short title. 1. This Act may be cited as the Estates Quarters (Special Provisions) Act.

Period during which the right to occupy quarters subsists after the termination of employee's services. 2. Where the services of any person who is an employee on an estate and who is provided with quarters on the estate are terminated by the employer, whether with or without notice, then, notwithstanding the termination of such services, such person shall—

- (a) have the right to occupy such quarters together with his dependants until he is ejected therefrom on a decree of a court of competent jurisdiction; and
(b) during the period he exercises the right conferred on him by paragraph (a), be entitled to have all the facilities which are necessary for the exercise of that right and which he had prior to the termination of his services.

Offences. 3. Any person—
(a) who prevents any other person from exercising the right conferred on such other person under section 2; or
(b) who deprives such other person of any facility to which he is entitled under that section; or
(c) who interferes with the occupation by such other person of such quarters,

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 six months or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

4. Any contract or agreement, whether made before or after the 21st day of January, 1971, whereby the right conferred on any person by section 2 of this Act is in any way affected or modified to his disadvantage, shall be null and void in so far as it purports to affect or modify such right.

Contracting out of the right conferred by this Act.

5. In this Act—

Interpretation.

" dependant ", when used in relation to an employee, means the spouse of such employee or any child, parent, aged relative or incapacitated relative of such employee or of the employee's spouse;

" employee " means a person who is employed on an estate by an employer under a contract, whether oral, written, express or implied, to perform any work and who is paid wages at an hourly or daily rate ;

" employer " means the proprietor of an estate and includes the agent, superintendent or manager of such proprietor;

" estate " means any land or group of lands—

(a) which belongs to or is held by one or several persons ; and

(b) of which an extent of not less than fifty acres is under cultivation for any purpose other than the production of foodstuffs as defined in the Food Production (Estates) Act;

" quarters " means a place of residence.

**CHAPTER 523**

**ESTATE ROADS**

*Ordinances* AN ORDINANCE TO PROVIDE FOR THE CONSTRUCTION, UPKEEP, AND REPAIR OF  
 Nos. 12 of 1902, ESTATE ROADS.  
 14 of 1907,  
 19 of 1910,

*Act*  
 No. 11 of 1951,  
*Law*  
 No. 37 of 1973.

[15th July. 1902.]

**CHAPTER I**

connect the said estates with the most convenient principal thoroughfare;

**PRELIMINARY**

Short title. **1.** This Ordinance may be cited as the Estate Roads Ordinance.

(f) the description of the road required.

(2) All applications shall be accompanied, if considered necessary by the Director of Works, by a plan and section of the proposed road drawn to a reasonable scale, and an estimate in detail showing the estimated cost of each half mile of the road.

**CHAPTER II**

**CONSTRUCTION OF ESTATE ROADS**

Application for construction of road. [§ 8, Law 37 of 1973.] **2.** (1) The proprietors of any two or more estates situated in the same locality, to which there is no available thoroughfare or branch road leading from some convenient principal thoroughfare, may make application in writing to the Director of Works of the region in which such estates are situated that the provisions of this Ordinance be extended to the said locality, and such application shall set forth, so far as the same may be ascertained, the following particulars:—

(3) In any case where the estates fall within two regions, the Minister may by Notification published in the Gazette authorize the Director of Works of any such region to exercise in that case the powers conferred by this Ordinance.

- (a) the description of the locality;
- (b) the names of all the estates therein ;
- (c) the names of the proprietors, or if they be absent from Sri Lanka, of the resident manager or superintendent, and of the agents, if any, of each estate ;
- (d) the acreage of each estate, so far as it is known, with the extent of land under cultivation;
- (e) the estimated length in miles of the road required to be made to

**3.** On receipt of such application the Director of Works shall, by publication in two consecutive numbers of the Gazette and by such other means as he may think necessary, give notice of his intention to define the limits of the district, the estates in which will—if the proposal for the construction of such estate road under the provisions of this Ordinance be assented to by the proprietors of two-thirds of the acreage in such district—be assessed for the construction and maintenance of such road. In such notice the Director of Works shall appoint the time and place at which he will take evidence, if necessary, and receive and consider objections, and after making such inquiry as he may deem requisite, and considering any such objection, shall proceed to define the limits of such district; or if need be, shall adjourn such meeting as

The Director of Works to define limits of district upon day appointed ;

or at any adjourned meeting.

The Director of Works empowered to vary or alter limits, if occasion arise.

often as he considers necessary to any day or days to be fixed by him, when he shall upon such adjourned meeting define the limits of such district. And it shall be competent to the Director of Works from time to time, if occasion arise, to alter and vary such limits so as to include such estates as may have been newly opened or may have been inadvertently or otherwise excluded, or if he considers just, to exclude any estate which may have been erroneously included :

Provided, however, that the Director of Works shall, by publication in two consecutive numbers of the Gazette and by such other means as he may think necessary, give notice of his intention to alter and vary the limits of any district, and shall in such notice appoint the time and place for hearing objections, if any, in the same manner as is herein provided for in the case of the original definition of a district; and the limits so altered shall thereupon be the limits of such district as if they had been originally defined, and the estates included within such limits, altered as aforesaid, shall become bound and be liable to be assessed for the upkeep and repair of such estate roads as if they had been originally included within such district.

Sums assessed for construction to be recovered in manner hereinafter provided.

4. It shall be competent to the Director of Works to call upon the proprietor or resident manager of any estate included within such limits so altered as aforesaid to pay the sum which he would have been liable to pay had such estate been originally assessed for construction of such road as well as such sums as may be assessed for the repair and upkeep of such road from such time as such estate began to use such road, and in default of payment of any such sum the same shall be recovered in manner hereinafter provided for the recovery of sums assessed :

Provided that the proprietor of any estate or part of an estate formed out of land purchased from the State after such estate road shall have been constructed shall be liable to pay only such sum as may be assessed for the repair and upkeep of such road.

5. Upon the limits of the district being defined as aforesaid, the Director of Works shall transmit to the proprietor (or, in case of his absence from Sri Lanka, to the resident manager or superintendent, or if there be no resident manager or superintendent, to the agent, if any, in Sri Lanka, of the proprietor) of every estate within the limits of such district, so defined as aforesaid, a requisition calling upon him to declare in writing within such time as shall be therein specified, whether he desires that the provisions of this Ordinance should be extended to such district for the purpose of the construction therein of an estate road. Such requisition shall be in the form A in the Schedule or as near thereto as may be. If there be no known agent, the Director of Works shall cause such requisition to be affixed to some conspicuous part of the estate, and published in two consecutive numbers of the Gazette. If no answer be received at the office of the Director of Works within the time limited by such requisition, the person to whom the same was forwarded shall be deemed to have assented to the proposal referred to therein.

Proprietors to be called upon to declare whether they desire to bring district under the Ordinance.

If no agent, requisition to be affixed.

6. If it shall appear to the Director of Works from the replies to such requisition or otherwise, that the proprietors of at least two-thirds of the acreage in any such district are desirous that the provisions of this Ordinance should extend and be applied to the said district for the purpose of constructing therein an estate road, he shall forthwith forward the application to the Minister, together with his report as to the necessity for the said road and as to the direction and terminus which he recommends as best adapted for the general convenience of the district, and thereupon it shall be lawful for the Minister to approve of the construction of such road.

If proprietors of two-thirds of acreage assent, Director of Works to forward application to Minister with report.

7. (1) Upon the receipt of the Minister's approval it shall be lawful for the Director of Works to appoint two assessors by writing under the hand of the Director of Works. The assessors so appointed shall, upon the receipt of such appointment, forthwith issue a notice to the person in charge of each of the estates through which the proposed estate road will pass, that they will, on a day to be named in such notice, visit such estate and summarily inquire into

Director of Works to appoint assessors.

the value of the land belonging to such estate to be taken over for the construction of the proposed road, and shall fix the amount of compensation to be paid to the proprietor of any such estate therefor.

(2) The assessors so appointed shall, when fixing the amount of compensation to be paid to any proprietor, at the same time fix and determine the equivalent in money of any benefit which will accrue to such estate by the construction of the proposed road:

Provided, however, that in no case shall the assessors fix the money equivalent of such benefit at a larger amount than the sum fixed as compensation for land taken over from such estate for the construction of the proposed road.

(3) The decisions of the assessors as to the amount to be paid as compensation for the land acquired from, and as to the amount fixed as the money equivalent of the benefit accruing to, any estate by the construction of the proposed road shall be respectively subject to an appeal to the Director of Works, who may affirm or disallow the same respectively, and the Director of Works may, if he thinks fit, send the same back to the assessors to reassess the same, or he may appoint an additional assessor or fresh assessors for this purpose, and such reassessment shall be subject to a like appeal, and every such decision not appealed from within the time hereinafter provided, or when affirmed by the Director of Works on appeal, shall be final, and shall bind the proprietor of the estate in respect of which such decision has been made.

(4) The proprietor of an estate or his agent or representative in Sri Lanka taking an appeal under the preceding subsection shall have thirty days from the date on which the assessors shall have posted a copy of their decision to the person in charge of such estate in which to appeal to the Director of Works from such decision.

(5) Whenever a final decision has been come to as to the amount to be paid as compensation and the amount of the money equivalent of the benefit accruing to any estate by the construction of the proposed

road has been finally determined, any sum fixed as the money equivalent of the benefit accruing to an estate shall be deducted from the sum to be paid to such estate as compensation, and the proprietor of such estate shall be entitled to receive any balance.

(6) Nothing in this section contained shall prevent the Director of Works from agreeing with the proprietors as to the amount of compensation to be paid to such proprietors without the appointment of any assessors as hereinbefore provided, if it shall appear expedient to the Director of Works so to do.

8. As soon as the amounts to be paid as compensation to the several proprietors of the lands taken over for the construction of the proposed road have been finally determined as prescribed in section 7, the Director of Works shall forward to the Minister a report setting out the total net amount to be paid for compensation, together with the estimated cost of the construction of such road. And upon receipt thereof it shall be lawful for the Minister, if to him it shall appear expedient, to sanction the construction of such road : and upon the publication of such sanction in the *Cia/ette* the proprietors of all the estates within the limits of such district, so defined as aforesaid, shall become and be severally bound and liable for their contribution in accordance with the rates to be determined by an assessment as hereinafter provided.

Construction if roads to be sanctioned by Minister and proprietors to be liable for their contribution.

**CHAPTER III**

**DIRECTORS OF WORKS AND LOCAL COMMITTEES**

9. Upon the publication of the Minister's sanction, and notice thereof being communicated to him, the Director of Works shall, by notice in two consecutive numbers of the Gazette and such other means of publication as he may think necessary, convene at some suitable place a general meeting of the proprietors or resident managers of the estates therein to elect a local committee, which shall consist of not less than two nor more than five members, to perform the duties imposed

Director of Works to convene meeting for election of local committee.

upon such committee by this Ordinance. The general meeting so convened for the election of such committee shall consist of such number of proprietors or resident managers within the district as shall represent not less than one-third of the acreage.

meeting of proprietors or resident managers for the election of a new local committee. At such meeting the Director of Works, if present, or, if he be absent, such proprietor or resident manager as the meeting shall elect, shall act as chairman, and in all other respects the proceedings at such meeting shall be governed by the provisions of section 10.

Proceedings at election.

10. At such general meeting it shall be lawful for the proprietors, or their representatives present thereat, to elect the persons who are to act as members of the local committee. The Director of Works, if present, or, if he be absent, such proprietor or resident manager as the meeting shall elect, shall act as chairman at such meeting, and it shall be lawful for the meeting, if need be, to adjourn such meeting to any other time or place. All questions and resolutions shall be determined by a majority of the votes of the proprietors or their representatives as aforesaid. In case of equality of votes the chairman shall have a casting vote in addition to his own vote. And if any question shall arise at such meeting as to the right of any person to vote thereat, or the mode of proceeding for the election of persons to serve as members of the local committee, the chairman shall determine the same, and his decision shall be final and conclusive. The minutes of such meeting shall be transmitted by the chairman to the Director of Works, with the names of the persons elected as members of the local committee, and the Director of Works shall cause such names to be published in the Gazette.

13. The local committee so elected, or in the event of such committee consisting of only two members, the Director of Works, shall appoint one of the members as chairman, who shall hold office during the said term of two years; and in case of any vacancy the local committee shall elect, or in the event of such committee consisting of only two members, the Director of Works shall appoint, another member to act as chairman. And it shall be the duty of the chairman so appointed to convene, by notice in two consecutive numbers of the Gazette and by such other means as he may deem necessary, a meeting of the members whenever required by the Government or by the Director of Works appointing the time and place for such meeting; the chairman, or, if he be absent, such other member of the local committee as the meeting shall elect, shall preside at every such meeting, and shall duly record the proceedings of such meeting and forward the same to the Director of Works.

Appointment of chairman.

Members to hold office for two years. Proceedings in case of vacancy.

11. The persons elected to act as members of the local committee shall hold office for two years, and shall be eligible for re-election at the end of that term. In case of any member resigning, dying, or leaving Sri Lanka, or becoming incapable to act, the other members for the time being, or in the event of the committee consisting of only two members, the remaining member, may elect another proprietor or resident manager to serve for the remainder of the term for which the member so resigning, dying, or leaving Sri Lanka, or becoming incapable to act, was elected.

14. All acts whatsoever authorized or required to be done by any local committee may and shall be done by the majority of members of such committee present at any meeting convened as aforesaid or at any adjournment of such meeting, two of them to form a quorum:

Majority of members to decide all questions.

Provided that when the votes of the members present shall be equally divided, the chairman shall, beside his vote as a member, have a casting vote.

Biennial meeting for election of local committee.

12. At the expiration of every two years from the appointment of the first local committee the Director of Works shall convene, in manner provided in section 9, a

15. (1) If the proprietors or resident managers of estates in any district fail to elect a committee for the district at the meeting convened for that purpose or at the adjourned meeting, it shall be competent to the Director of Works to nominate not less than two nor more than five proprietors or resident managers residing within the district to be the local committee. The

If members not elected, the Director of Works may nominate a local committee.



persons so nominated shall hold office for two years, and a local committee so nominated may do any of the acts or perform any of the duties which an elected local committee is authorized to do or perform under the provisions of this Chapter.

If local committee fail to perform duties imposed on it. Director of Works to act.

(2) If the local committee, whether elected or nominated, shall fail to perform the duties imposed upon it by this Ordinance, the same may be performed by the Director of Works.

Local committee to convene meetings to determine the assessment of estates and report to Director of Works.

**16.** The local committee shall, so soon thereafter as it may be required so to do by the Director of Works, convene, by notice in two consecutive numbers of the Gazette and by such other means as they may deem necessary, a meeting of the proprietors or resident managers of the estates within the district at some specified time and place within such district, and the local committee shall thereat or at any adjourned meeting, after hearing objections, if any, and taking evidence, if necessary, determine, and make report to the Director of Works, on—

- (a) the sections into which the road is to be divided for construction assessments;
- (b) the sections into which the road is to be divided for upkeep assessments;
- (c) the estates which, in their opinion, are interested in and will use each section of the road or of any part thereof;
- (d) the acreage or reputed acreage of the land belonging to each estate ;
- (e) the names of the proprietors, resident managers, or superintendents, and of the agents:

Provided, however, that the sections into which the road is divided for construction assessment shall in no case exceed half a mile in length, that the sections into which the road is divided for upkeep assessment shall in no case exceed one mile in length, and that an estate using any portion of a section shall be assessed for the whole of such section.

**17.** On receipt of such report the Director of Works shall cause a notice to be published in two consecutive numbers of the Gazette and made public by such other means as he may think necessary, appointing time and place for hearing objections, and after hearing such objections, if any, the Director of Works shall adopt, alter, modify, or confirm such report, and shall proceed to assess the proportion due by each estate by dividing by the total number of acres of the estates which, in his opinion, are interested in and will use each section (subject to the exception in section 18 specified) the sum of money equal to the total estimated cost of the construction of such sections of the proposed estate road, less any sum that may be voted by Parliament to be paid out of the Consolidated Fund in respect of such proposed road, and thus apportioning the amount due upon and for each acre, and the rate so assessed by the Director of Works shall (subject to the appeal hereinafter provided) be binding and conclusive on all proprietors of estates in such district. And the Director of Works shall thereupon transmit to the proprietor of each estate (or, in case of his absence from Sri Lanka, to the resident manager or superintendent, or, if there be no resident manager or superintendent, to the agent, if any, in Sri Lanka, of the proprietor) a requisition calling upon him to pay to the chairman of the local committee, within such time as shall be therein specified, the amount of the contribution due by him. The requisition under this section shall be in the form B in the Schedule or as near thereto as may be. If there be no known agent, the Director of Works shall cause the requisition to be affixed in some conspicuous part of the estate. The Director of Works shall also cause a notice to be published in two consecutive numbers of the Gazette and made public by such other means as he may think necessary, specifying the estates which will have to contribute towards the construction of the proposed road, the sum at which each estate is assessed, and the time within which, the instalments by which, and the dates upon which, the several contributions are to be paid to the chairman of the local committee.

Director of Works to determine objections to assessment proposed by local committee and to determine proportion due by each estate.

Exemption from assessment of uncultivated and abandoned lands.

18. If by reason of any estate, or any portion not less than half of the entire extent thereof, being obviously unfit for cultivation, or having been cultivated and abandoned, or from any other cause, it shall seem to the Director of Works right to exempt such estate or portion thereof from the assessment, it shall be lawful for the Director of Works to do so, and to proceed in his assessment as if there was no such land in the district:

Exemption from assessment how claimed.

Provided that to entitle a proprietor to such exemption he or some person representing him shall claim the same at the time and place appointed by the Director of Works for hearing objections of proprietors or of agents to estates included within the limits of the district, as provided by section 17, and shall at his own cost and expense satisfy the Director of Works, by such proof as he shall call for, that he is entitled to such exemption;

Exempted estates to be liable if afterwards cultivated.

Provided further that should the proprietor of any such estate or portion thereof, or any person claiming under him, bring such estate or portion thereof into cultivation afterwards, and use the road for the purposes of, or with a view to, such cultivation, it shall be competent for the Director of Works to call upon such proprietor or person to pay the sum which he would have been liable to pay had such estate or portion thereof not been exempted from the original assessment, together with any sums which shall have become due for upkeep and repair since such estate began to use such road, and in default of his paying the same to proceed to recover such sum in the manner herein provided for the recovery of sums assessed;

Estates exempted may subsequently be included.

Provided further that should the proprietor of any estate who had claimed and obtained exemption upon the ground of such road not being the proper outlet or other cause, or any person on his behalf, use such road, it shall be competent for the Director of Works to include such estate within the limits of the district from which it had been excluded by reason of such claim, and to call upon such proprietor, or any person claiming on his behalf, to pay any amount not exceeding double the sum which he would have been liable to pay had

such estate not been exempted from the original assessment, and also any sum not exceeding double the amount of all rates and assessments for the upkeep and repair of such road subsequent to the time when such estate began to use such road, and in default of his paying the same to proceed to recover such sum in the manner herein provided for the recovery of sums assessed.

19. Moneys recovered under section 18, and moneys recovered from estates added to a district as altered under the provisions of section 4, shall—

Application of moneys recovered.

- (a) if recovered as construction assessment moneys, be divided amongst the proprietors (at the date of such recovery) of estates which have previously paid construction assessment, in shares proportionate to the sums so previously paid ; and
- (b) if recovered as upkeep or repair assessment moneys, be retained by the local committee and applied towards the future upkeep and repair of the roads.

20. All moneys paid to the chairman of the local committee shall be vested in and applied by the local committee for the purposes for which the same were requisitioned, and all contracts and agreements relating to the construction, upkeep, or repair of roads shall be signed by the chairman and one other member of the local committee.

Moneys to be vested in local committees.

CHAPTER IV

COMPLETION AND REPAIR OF ESTATE ROADS

21. If, after any road shall have been commenced under the provisions of this Ordinance, the estimate originally made shall prove insufficient for properly constructing and surfacing the same, the estates in the district (including any which may have been opened since the original assessment) shall become and be held liable for the further sum or sums required to complete the road. And the Director of Works shall proceed, once or oftener, if necessary, to assess the proportion due by

If amount of first estimate prove insufficient, further estimates are to be made, and the rates payable by the estates to be assessed in like manner as the original rates.

CHAPTER V

RECOVERY OF SUMS ASSESSED

the estates in each section of the road, to make up such further cost, and to take the further proceedings prescribed for the original assessment of the proportion due by each estate under section 17. And the rate or rates assessed by the Director of Works shall, subject to the appeal hereinafter provided, be binding and conclusive on all proprietors of estates in the districts, and shall be recovered as prescribed herein, and applied to the completion of the said road.

Further rates for repairs or improvements.

**22.** Whenever it shall be found necessary at any time to repair or improve any road constructed under the provisions of this Ordinance, the estates in the district (including any which may have been opened since the original assessment) shall become and be held liable for the sum or sums required for making the necessary repairs and improvements, less such sum or sums as may be voted by Parliament towards the cost of the repair and improvement of such road. And the Director of Works shall proceed to assess the proportion due by the estates in each section of the road, and shall take the further proceedings prescribed for the original assessment of the proportion due by each estate under section 17. And the rate or rates so assessed by the Director of Works shall, subject to the appeal hereinafter provided, be binding and conclusive on all proprietors of estates in the district, and shall be recovered as prescribed herein, and applied for the purpose of repairing the said road :

Provided also that the cost of erecting labourers' lines sanctioned by the local committee and necessary for the labourers engaged in repairing or improving any road as aforesaid shall be borne by the estates in the district (including any which may have been opened since the original assessment), and the proportion due by such estates for the cost thereof shall be assessed by the Director of Works as aforesaid ;

Provided further, that when the Director of Works is satisfied that a portion of any estate not being less than one-quarter of its total area is unfit for cultivation, such portion shall not be taken into account in assessing the contribution towards the cost of repairs and improvements to which such estate is liable under this section,

**23.** If any proprietor or resident manager shall be in default in the payment of any money payable by him under this Ordinance, it shall be lawful for the Director of Works to order proceedings to be taken for the recovery of the same. When the Director of Works shall order proceedings for the recovery of the sum for which any estate shall have been assessed, or any instalment thereof, it shall be lawful for the Director of Works, or any person authorized by writing under his hand, to seize and to sell at his discretion, once or oftener, all the crops, livestock, and implements found on such estate, or any other movable property whatsoever belonging to the proprietor, until the full amount due by such estate (including all interest, costs, and charges payable under sections 25, 26 and 27) shall be recovered. If there be no crop, livestock, and implements on such estate, or other movable property belonging to the proprietor of the estate in default as aforesaid, or if there shall not be sufficient to realize the sum due by such estate, it shall be lawful for the Director of Works, or other person as aforesaid, to cause the timber on the said estate to be cut, or the materials of the buildings erected thereon to be removed, and unless the sum due shall be sooner paid, with the interest, costs, and charges as aforesaid, it shall be lawful for the Director of Works or any person as aforesaid to sell the property so seized by public auction at any time after thirty days from the date of seizure.

Procedure for recovery of money due from defaulting proprietor.

**24.** (1) If, after seizing and selling property enumerated in section 23, the assessment upon the estate shall still remain unsatisfied, it shall be lawful for the Director of Works, or the person authorized as aforesaid, to seize the estate or any other immovable property belonging to the proprietor of the estate in default and sell the same, subject to the existing mortgages and incumbrances thereon, after two months' notice from the date of seizure, but he shall not have the power to take in

When may estate be sold for recovery of money due from defaulting proprietor.

execution or seize the person of the proprietor in default for the assessment due or for any balance thereon:

Provided that in the case of a proprietor absent from Sri Lanka, and not represented by any person therein, the sale shall not take place without notice of such sale being published in the Gazette for six months previous to the sale, and being affixed in some conspicuous part of the estate.

If the estate cannot be sold, then deficiency to be charged against other proprietors.

(2) If the estate or other property cannot be sold for want of bidders, or from any other cause, or if the same be sold, but the proceeds are insufficient to satisfy the assessment and all expenses payable under section 27, it shall be lawful for the Director of Works to charge the sum still remaining due proportionately against the other proprietors and estates in the district under assessment for the construction and repair of the road therein, and if need be, to enforce the payment thereof as if such proprietors and estates were originally liable therefor:

Provided that the right and duty of the Director of Works to recover from the original defaulter, should it subsequently become possible to do so, shall in no way be affected by his proceeding against such other proprietors and estates as aforesaid. And in case the Director of Works shall subsequently recover any moneys from such original defaulter, such moneys, in so far as they may have been so recovered in respect of construction assessment, shall be divided among the proprietors (at the date of such recovery) of the other estates, who paid in lieu of such original defaulter, in proportion to the sum so paid; and so far as such moneys may have been so recovered in respect of upkeep or repair assessment, they shall be retained by the Director of Works and applied towards the future upkeep and repair of the road.

Defaulting proprietors made liable in interest.

25. If any proprietor shall neglect or refuse to pay, when the same shall become due, his proportion of the money due by proprietors for the construction, completion, or repair of roads under this Ordinance, he shall be liable to pay interest at the rate of nine *per centum* per annum

from the time fixed for such payment, and such interest shall, with the principal and other costs and charges due, be recovered from him in manner prescribed for the recovery of sums assessed.

26. It shall be lawful for the person making the seizure to place and keep a person in possession of the property so seized as aforesaid pending such sale. Any movable property so seized as aforesaid may be removed for safe custody, pending the sale thereof, to such place as the person directing the seizure may think fit.

Keeping a person in charge of property seized,

27. It shall be lawful for the Director of Works, or any person authorized by him as aforesaid, to demand, take, and receive from the person by whom money may be due as assessment, or from the owner or any joint owner of any property which may be lawfully seized for such non-payment as aforesaid, the cost of seizure, removal, custody, and sale of any property sold under sections 23 and 24.

Cost and charges of seizure and sale.

28. In the event of a sale of property seized the Director of Works at whose instance such seizure was made shall, after deducting the amount due by the defaulter, and also all costs and charges due (which said costs and charges the Director of Works is hereby authorized to retain), restore the overplus arising from such sale, if any there be, to the owner or joint owner of the property sold.

Return of overplus to owner.

29. If property be sold for non-payment as aforesaid, a transfer in form C in the Schedule, or as near thereto as may be, signed by the Director of Works, shall be sufficient to vest the right, title, and interest of the defaulting proprietor in the purchaser, any law or custom to the contrary notwithstanding. Such transfer shall be liable to stamp duty as a conveyance, and to any registration or other charges authorized by law, such duty and charges being payable by the purchaser.

Certificate of sale.

30. Any Director of Works who shall cause property to be seized and sold as aforesaid shall, in the execution of the authority entrusted to him by this Ordinance, be civilly responsible in

Director of works liable in damages.

damages to any person who shall be aggrieved by reason of any irregularity of proceeding or abuse of authority on the part of the Director of Works as aforesaid, or on the part of any person specially authorized by him as aforesaid ;

inquiry, and to confirm the decision or order of the Director of Works, or to alter or modify the same ;

Provided always that no such appeal as aforesaid shall lie until the person aggrieved as aforesaid shall have paid (subject to the decision of the appeal) any moneys which he may have been required to pay by the decision or order in question.

Provided, however, that no action for such damages shall be brought against the Director of Works or any of his officers after the expiration of three months from the time when the cause of action shall have arisen.

CHAPTER. VI

GENERAL PROVISIONS

Director of Works to keep a register of names of proprietors and agents.

31. The Director of Works shall keep a register of the names of the proprietors and agents (if any) for the time being of all estates in districts defined under this Ordinance, and upon any estate being transferred to a new proprietor or upon the agents of the estate being changed, it shall be the duty of the Director of Works to record such transfer or change in the said register:

Duty of notifying transfers or changes of agency to Director of Works.

Provided always that the duty of notifying every such transfer or change shall lie on the transferee and the agents of the estate, and until such transfer or change, as the case may be, shall have been notified to the Director of Works by the proprietor or agents of the estate, all notices to be sent under this Ordinance by the Director of Works to the proprietor or agents of the estate shall be deemed duly sent if sent to the late proprietor or agents, as the case may be.

Appeal to Minister against decisions or orders under sections 3, 17, 18, 21, 22, or 33.

32. Any person aggrieved by any decision or order of the Director or Works in respect of the definition of districts under section 3, or the assessment of estates under sections 17, 21, or 22, or any decision or order made under sections 18 or 33, may apply to the Minister for relief at any time within twenty-one days after such decision or order shall have been notified to him. It shall be lawful for the Minister, upon such application, to make or direct further

33. If costs shall be incurred in any suit, other than that provided by section 30, brought by or against the Director of Works for anything done under the provisions of this Ordinance, or if a survey be indispensable to enable the Director of Works to act, the Director of Works shall order one to be made, and such costs and the expenses of such survey shall be payable by the proprietors of the estates in the district in proportion to the acreage of such estates. And if any proprietor refuse or neglect to pay his proportion when required to do so, the Director of Works shall recover the same in the manner and subject to the provisions herein prescribed under Chapter V relating to " Recovery of Sums Assessed ". Costs.

34. It shall be lawful for the Minister to make the grant of any sums voted by Parliament not exceeding the moiety of the estimated cost of construction, maintenance, or repair of any road constructed under the provisions of this Ordinance subject to such regulations for ensuring the due outlay and appropriation of the contribution, as well from the public funds as by the proprietors, as the Minister shall think fit from time to time to establish, either specially in each case or generally applicable to all cases: Government grant may be made subject to conditions.

Provided that no warrant shall be issued by the Minister in charge of the subject of Finance for the payment of any such sum of money, or of any part thereof, from the Treasury, nor shall any sum be issued from the Treasury until the amount payable by the proprietors of the estimated cost of constructing or repairing such road, or so much thereof as the Minister may think necessary, shall have been deposited with the chairman of the local committee by or on behalf of the proprietors of such estates as aforesaid. Money not to be paid by Government till deposit of amount payable by proprietors or part thereof.

Proprietor may be represented by resident manager or agent.

**35.** In case of the absence from Sri Lanka of the proprietor of any estate, the resident manager—or, if there be no resident manager or superintendent, the agent, if any, in Sri Lanka of the proprietor—shall and may represent such proprietor and act for him in all matters and things which it may be lawful or necessary for such proprietor to do under any of the provisions of this Ordinance. If there be no known agent, notice affixed on the land and published in the Gazette shall be deemed notice to the proprietor.

Certain roads may be brought under the provisions of this Ordinance.

**36.** In any case in which a road or portion of a road has been constructed, or partially constructed, or shall hereafter be constructed, by the proprietors of any estates, it shall be lawful for the proprietors for the time being of such estates to apply to the Minister that such road may be treated as a road constructed under this Ordinance, and on receipt of such application the Minister may, if he thinks fit, issue a Notification declaring that such road shall be treated as a road made under this Ordinance, and on the publication of such Notification in the Gazette the provisions of this Ordinance relating to improvement, upkeep, and repair of roads shall apply to such road as if it had been originally constructed under the provisions of this Ordinance.

Bridges and roads may be brought under the provisions of this Ordinance.

**37.** (1) The Minister may by Notification extend the application of this Ordinance or of any specified provisions thereof to the construction, maintenance, and improvement, or to the maintenance and improvement only, of any road or bridge to which this Ordinance would not, but for such Notification, be applicable.

(2) Nothing in this Ordinance shall be held to preclude the Minister from extending the application of this Ordinance to the maintenance and improvement of roads and bridges which have previously been maintained or partially maintained by means of money or labour provided by any Urban Council, Town Council or Village Council, or to the construction, maintenance, and improvement of roads or

bridges which connect, or will when completed connect, two principal thoroughfares.

(3) Every road towards the construction or repair of which any money shall be issued from the Treasury under the authority of this Ordinance shall be deemed and taken to be a public thoroughfare to all intents and purposes.

**38.** It shall be lawful for the Director of Works for sufficient reasons to him appearing, from time to time to amalgamate and combine any two or more districts defined under this Ordinance into one district:

Any two or more districts may be combined and amalgamated.

Provided, however, that the Director of Works shall, by publication in two consecutive numbers of the Gazette, and by such other means as he may think necessary, give notice of his intention to amalgamate and combine such districts, and shall in such notice appoint the time and place for hearing objections, if any, in the same manner as is herein provided for in the case of the original definition of a district, and the districts so amalgamated and combined shall thereupon become one district for the purposes of this Ordinance.

**39.** If any question arises as to what constitutes the use of a road under this Ordinance, the decision of the Director of Works on such question shall be final.

Decision of Director of Works final as to the use of a road.

**40.** Nothing contained in this Ordinance shall in any way limit the right of any person to apply for a grant to be voted by Parliament in respect of any estate road which shall hereafter be constructed by the proprietors of any estates.

Saving clause.

**41.** (1) Any power, function or duty conferred or imposed by this Ordinance on the Director of Works may be exercised or performed by the Superintending Engineer within his region or the Executive Engineer within his division, if authorized so to do by the Director of Works.

Exercise of powers and functions.

(2) The powers, functions and duties of the Director of Works, the Superintending Engineer and the Executive Engineer under this Ordinance shall be exercised and

**ESTATE ROADS**

**[Cap. 523**

performed subject to the general direction and control of the Secretary to the Ministry charged with the subject of Highways.

" estate road" includes any road not being a thoroughfare under the Thoroughfares Ordinance, or a branch road under the Branch Roads Ordinance, 1896, or a *gansabhawa* road;

Interpretation.

**42.** In the construction and for the purposes of this Ordinance—

" cost of constructing " includes the cost of acquiring the land as well as the cost of making the road;

proprietor " means the sole or any joint owner or lessee of an estate.

" estate " means a tract of land exceeding twenty acres, cultivated or uncultivated, belonging to or held by one person or several persons and forming a separate or distinct property;

**43.** Nothing in this Ordinance contained shall be held to apply to proprietors of paddy lands or land cultivated with paddy or other grain.

Ordinance not to apply to land cultivated with paddy or other grain.

SCHEDULE

Form A

[Section 5.]

Office of the Director of Works,

To:

19

Proprietor (or Resident Manager) of

Estate.

Sir,—It has been proposed to construct an estate road leading from the main road near the . . . . . mile-post (or at the village of . . . . . ) to the district of . . . . . in which your estate. . . . . is situated, under the provisions of the Estate Roads Ordinance, and I am therefore to request you to fill up the accompanying paper and return the same to me before the . . . . . day of . . . . . next ensuing, in failure whereof you will be deemed to have concurred in the said proposal.

I am, Sir,  
Your obedient servant,

Director of Works.

(Paper referred to in the foregoing letter.)

To the Director of Works for the *Central Province, Kandy.*

Sir,—I hereby declare that I do (or do not) desire that the provisions of the Estate Roads Ordinance should be extended to the district of . . . . . in which my estate (or the estate under my management) called . . . . . is situated, for the purpose of the construction of an estate road in the said district, from . . . . . to

I am, Sir,  
Your obedient servant,

Proprietor (or Resident Manager, or Agent) of.

Estate.

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**ESTATE ROADS**

[Section 17.]

Form B

Office of the Director of Works,

To: ..... , 19 .....

Proprietor (or Resident Manager, or Agent) of ..... Estate.

Sir,—The estimate having been sanctioned for the construction (or completion, or repair, as the case may be) of an estate road leading from ..... to ..... in the district of ....., in which your estate ..... is situated, the Director of Works, acting under the provisions of the Estate Roads Ordinance, has assessed the portion due by your estate at Rs. ...., which sum you are hereby required to pay to the Chairman, Local Committee, on or before the ..... day of ..... 19.....

I am, Sir,

Your Obedient Servant,

Director of Works.

[Section 29.]

Form C

Whereas ....., of ..... was in default in the payment of the moneys due by him as contribution for constructing (or completing, or repairing, as the case may be), under the Estate Roads Ordinance, ..... and became liable in the sum of Rs. .... inclusive of costs, and made default in the payment thereof; and whereas his property was seized in conformity with the said Ordinance, and sold also in conformity therewith, on the ..... day of ..... and the same was purchased by ..... for the sum of Rs. .... which has been duly paid by the said .....

Now know ye that I, ..... Director of Works of ..... by virtue of the powers vested in me by the said Ordinance, do hereby certify that the following property, to wit: (here describe the property accurately) has been sold and purchased by ..... of ..... for the sum of Rs. .... which he has duly paid, and that the right, title, and interest of the said - ..... - in the said premises are and shall henceforward be vested in the said ..... his heirs, executors, administrators, and assigns, for ever.

Given under my hand at ..... this ..... day of ..... 19 .....

Director of Works.



**CHAPTER 524**

**ESTATE ROADS (CONVERSION)**

*Act* AN ACT TO ENABLE THE COMPULSORY CONVERSION OF ANY ESTATE ROAD INTO A PUBLIC  
*No. 18 of 1956,* ROAD IF THE PUBLIC INTEREST NECESSITATES IT, AND TO PROVIDE FOR MATTERS  
*Law* CONNECTED WITH, OR INCIDENTAL TO SUCH CONVERSION.  
*No. 37 of 1973.*

[17th February. 1956.]

Short title. **1.** This Act may be cited as the Conversion of Estate Roads into Public Roads Act.

(3) Where a public road order is made, the appropriate road authority shall cause to be sent by registered post—

**PART I**

**PUBLIC ROAD ORDERS**

Public road orders. **2.** (1) Where the Minister decides that any estate road should, in the public interest, be compulsorily converted into a public road, the appropriate road authority shall by written order, hereinafter referred to as a " public road order "—

(a) to the person for the time being in charge of the estate affected by that order, and

(b) to the owner or each owner of such estate if he is a resident of Sri Lanka and his address is known,

a copy of that order certified under the hand of such road authority and a written notice specifying the period within which the owner or any owner of such estate may appeal from the public road declaration made by that order to the board of review. Such period shall not be less than twenty-one days.

(a) declare—

(i) that such estate road shall be a public road ; and

(ii) if any estate land is required for the purpose of the widening, extension or diversion of such road, that such estate land shall be a road reservation for that purpose; and

(4) A public road order shall not be in operation during the time allowed for the making of an appeal from the public road declaration made by that order. Where no appeal from that declaration is made within the time allowed therefor, that order shall come into operation on the expiry of that time, and where such an appeal is disallowed, that order shall come into operation on the day immediately following the date on which the appeal is disallowed.

[§ II, Law 37 of 1973.]

(b) determine, after consultation with the Secretary to the Ministry charged with the subject of Highways, whether the responsibility for the maintenance of that road shall be imposed on the Director of Works or the owner or owners of the estate affected by the order.

(5) A public road order which is in operation shall have the force of law.

(2) The declaration made under paragraph (a) of subsection (1) is hereinafter referred to as a " public road declaration ".

**3.** Where a public road declaration is made by a public road order in respect of an estate road or an estate land, the owner or any owner of the estate to which that road or land belonged immediately before that

Appeal from a public road declaration.

order may, within the period specified in the notice under section 2, appeal from that declaration to the board of review.

Effect of a public road order.

4. (1) An estate road which is declared by a public road order to be a public road shall, when that order comes into operation, be deemed to be required for a public purpose, and may be acquired by the Government under the Land Acquisition Act. No such estate road shall, notwithstanding anything in any other written law, be the property of the State until it is so acquired-

(2) An estate land which is declared by a public road order to be a road reservation shall, when that order comes into operation, be deemed to be required for a public purpose, and may be acquired by the Government under the Land Acquisition Act.

(3) The responsibility for the maintenance of an estate road which is declared by a public road order to be a public road shall, when that order comes into operation, be as determined by that order.

Determination of the question whether protective measures are required in respect of an estate affected by a public road order and, if so, their reasonable cost, and the tender and payment thereof.

5. (1) As soon as possible after an estate road becomes a public road by virtue of a public road order, the appropriate road authority shall, after such inquiry as that authority may deem necessary, determine—

- (a) whether, in consequence of the conversion of that estate road into a public road, the owner or owners of the estate affected by that order will have to take measures for the prevention of loss or damage to that estate and, if so, the amount which shall be paid by that authority as the reasonable cost of taking such measures, and
- (b) where that estate is owned by more than one person, the apportionment of that amount to the owners of that estate.

A determination under this subsection is hereinafter referred to as a "determination of protective measures".

(2) Where a determination of protective measures is made in respect of an estate, the appropriate road authority shall cause written notice of that determination to be sent by registered post—

- (a) to the person for the time being in charge of that estate, and
- (b) to the owner or each owner of that estate if he is a resident of Sri Lanka and his address is known.

The notice shall specify the period within which the owner or any owner of that estate may appeal from that determination to the board of review. Such period shall not be less than twenty-one days.

(3) Where a determination of protective measures is made in respect of an estate, the owner or any owner of that estate may, within the period specified in the notice under subsection (2), appeal from that determination to the board of review.

(4) Where a determination of protective measures specifies an amount to be paid by the appropriate road authority to the owner or owners of an estate, that authority shall—

- (a) if no appeal from that determination is made to the board of review within the time allowed therefor by this Act or if such an appeal is disallowed by that board, tender to such owner or each such owner the amount to which he is entitled under that determination, and
- (b) if an appeal from that determination is allowed by that board, tender to such owner or each such owner the amount to which he is entitled under the fresh determination made in appeal by that board,

and shall pay the tendered amount to the person to whom it is tendered if he consents to receive it.

Determination of Government's contribution to cost of maintenance of a road which becomes a public road by virtue of a public road order. [§ 12, Law 37 of 1973.]

6. (1) Where the responsibility for the maintenance of a public road is imposed on the owner or owners of any estate by any public road order, the appropriate road authority shall, after consultation with the Secretary to the Ministry charged with the subject of Highways, determine—

- (a) what portion of the cost of such maintenance shall be paid, from time to time, to such owner or owners by the Secretary to the Ministry charged with the subject of Highways; and
- (b) where that estate is owned by more than one person, the apportionment of the Government's contribution to the owners of that estate.

(2) The Government's contribution under this Act to the cost of maintenance of a road may be increased or reduced, from time to time, by the appropriate road authority, after consultation with the Secretary to the Ministry charged with the subject of Highways, by a fresh determination made either of his own motion or on application made in that behalf by the owner or any of the owners of the estate on whom the responsibility for the maintenance of that road is imposed under this Act.

(3) Where the appropriate road authority determines the Government's contribution under this Act to the cost of maintenance of a road, he shall cause written notice of the determination to be sent by registered post—

- (a) to the person for the time being in charge of the estate on the owner or owners of which the responsibility for the maintenance of that road is imposed under this Act, and
- (b) to such or each such owner if he is a resident of Sri Lanka and his address is known.

If the determination does not increase the amount of the Government's contribution, the notice shall specify the period within which the owner or any owner of such estate may appeal from the determination to the board of review. Such period shall not be less than twenty-one days.

(4) Where a determination of the Government's contribution under this Act to the cost of maintenance of a road, other than a determination increasing the amount of such contribution, is made, the owner or any of the owners of the estate on whom the responsibility for the maintenance of that road is imposed under this Act may, within the period specified in the notice under subsection (3), appeal from that determination to the board of review.

(5) The determination of the Government's contribution under this Act to the cost of maintenance of a road shall—

- (a) if no right of appeal to the board of review from that determination is conferred by subsection (4) or if no such appeal is made within the time allowed therefor by this section or if such an appeal is disallowed by that board, have effect, and
- (b) if an appeal from that determination is allowed by that board, be superseded by a fresh determination of such contribution made in appeal by that board.

7. (1) Where the responsibility for the maintenance of a road is imposed under this Act on the owner or owners of an estate, the Secretary to the Ministry charged with the subject of Highways shall cause a written notice to be sent by registered post to the person in charge of that estate directing him to carry out, within the time specified in the notice, such work connected with the maintenance of that road as is so specified, and shall cause a copy of the notice to be sent by registered post to the owner or each owner of that estate if he is a resident of Sri Lanka and his address is known.

Maintenance of public roads by owners of estates. [§ 13, Law 37 of 1973.]

(2) Where the person in charge of an estate complies with a notice sent to him under subsection (1), the Secretary to the Ministry charged with the subject of Highways shall, if the owner or each owner of that estate is a resident of Sri Lanka whose address is known, tender to such owner or each such owner the amount to which he is entitled out of the Government's contribution under this Act to the cost of maintenance of the road to which that

notice relates, and shall pay the tendered amount to the person to whom it is tendered if he consents to receive it.

(3) Where the person in charge of an estate fails to comply with a notice sent to him under subsection (1), the Secretary to the Ministry charged with the subject of Highways shall cause the work specified in the notice to be carried out by the Department of the Director of Works of the region and the expenses incurred by the Department of such Director of Works in carrying out that work less the amount of the Government's contribution under this Act to such expenses shall, upon demand made in writing by the Secretary to the Ministry charged with the subject of Highways, be paid to such Secretary by the owner or owners of that estate within the time allowed by such Director.

(4) Where any sum payable to the Secretary to the Ministry charged with the subject of Highways under subsection (3) by the owner or owners of an estate is not paid within the time allowed by such Secretary, then such Secretary or any person authorized by him in writing in that behalf may seize and sell the produce of, and any movable property belonging to, that estate, and such Secretary shall cause the aforesaid sum and the expenses incurred in connexion with the seizure and sale to be deducted from the proceeds of the sale and the balance of such proceeds to be returned to such owner or owners.

**PART II**

**GENERAL**

Payment of sums due to a minor or a person of unsound mind.

**8.** (1) Where a sum not exceeding one hundred rupees is payable under this Act to any person who is a minor or is of unsound mind, that sum may, if he is a minor, be paid to him or, if he is a minor or of unsound mind, be paid for his benefit to any other person who is maintaining him.

(2) Where any sum payable under this Act to any person who is a minor or is of unsound mind exceeds one hundred rupees

or is not paid in the manner permitted by subsection (1), that sum shall, according as that sum exceeds or does not exceed one thousand five hundred rupees, be paid, for the benefit of that person, to the District Court or the Primary Court having jurisdiction over the place where the estate in respect of which that sum is payable is situated.

**9.** Where a person to whom any sum is payable under this Act declines to receive it when it is tendered to him, or is dead or cannot be found after diligent search, that sum shall, according as that sum exceeds or does not exceed one thousand five hundred rupees, be paid to the District Court or the Primary Court having jurisdiction over the place where the estate in respect of which that sum is payable is situated, to be drawn by the person entitled thereto.

Sums which cannot be paid to persons to whom such sums are due.

**10.** Section 21, subsections (2) and (3) of section 22 and sections 24 to 27 of the Land Acquisition Act shall apply in relation to any appeal to the board of review under this Act subject to such amendments, omissions or modifications as may be prescribed.

Certain provisions of Land Acquisition Act to apply in the case of appeals to the board of review.

**11.** (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 for or in respect of any matter authorized to be prescribed by section 10.

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

**12.** The Secretary to the Ministry charged with the subject of Highways may, by general or special order in writing, delegate to any Executive Engineer of a Department of a Director of Works any of the powers or duties conferred or imposed on such Secretary by this Act.

Delegation of powers and duties of the Secretary to the Ministry charged with the subject of Highways. [§ 14, Law 37 of 1973.]

**ESTATE ROADS (CONVERSION)**

**[Cap. 524**

The Thoroughfares Ordinance to apply subject to the provisions of this Act.

**13.** The Thoroughfares Ordinance shall, in its application in the case of any road which is a public road by virtue of a public road order made under this Act, have effect subject to the provisions of this Act.

Interpretation.

**14.** In this Act, unless the context otherwise requires—

"appropriate road authority", with reference to a road or a road reservation, means the Government Agent, or the Assistant Government Agent, of the administrative district in which that road or road reservation is wholly or partly situated -

"board of review " means the board of review constituted under the Land Acquisition Act;

"estate" means any land or group of lands, whether cultivated or uncultivated, which is not less than twenty acres in extent and which forms a separate and distinct property;

"estate land " means land which belongs to an estate;

"estate road" means a road which belongs to an estate and includes all such land adjoining the road as has been reserved for the protection or benefit of the road ; and

"road reservation" means a road reservation declared by a public road order made under this Act.

CHAPTER 486

ESTATES STAFFS' ASSOCIATION

Ordinance  
No. 21 of 1935.

AN ORDINANCE TO INCORPORATE THE ESTATES STAFFS' ASSOCIATION OF CEYLON.

[25th July, 1935.]

- Short title. **1.** This Ordinance may be cited as the Estates Staffs' Association of Ceylon Ordinance.
- Incorporation of Estates Staffs-Association of Ceylon. **2.** From and after the commencement of this Ordinance, the chairman and members of the general committee for the time being of the Estates Staffs' Association of Ceylon (hereinafter referred to as "the association") and such and so many persons as are on that date or shall thereafter be members of the association, shall be and become a body corporate with perpetual succession under the style and name of "The Estate Staffs' Association of Ceylon" 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 change and alter the same at their pleasure.
- General objects of corporation. **3.** The general objects for which the corporation is constituted are hereby declared to be to promote, foster, and protect the planting industry of Sri Lanka and the interests of the staffs of estates.
- General committee. **4.** The affairs of the association shall be administered subject to the rules for the time being of the association, by a general committee to be elected in accordance with rules which the association shall make for the purpose under section 5.
- Rules. **5.** (1) It shall be lawful for the association, from time to time, at any general meeting of the members, and by a majority of votes, to make rules for any of the following purposes ;—
- (a) the admission, withdrawal or expulsion of members;
  - (b) the imposition of penalties and forfeitures for breaches of rules;
  - (c) the election, powers, conduct and duties of the general committee, and of the various officers, agents, and servants of the association;
  - (d) the procedure and the transaction of business;
  - (e) the administration and management of the property of the corporation and of all other property that may be vested in it in pursuance of this Ordinance;
  - (f) the establishment and support of provident funds for the benefit of the officers, members, employees and servants of the association;
  - (g) the settlement or arbitration of disputes that may be referred to it for that purpose by members of the association;
  - (h) generally the management of the affairs of the corporation and the accomplishment of its objects.
- (2) All members of the association shall at all times be subject to the rules for the time being of the association.
- 6.** No rule passed at a general meeting. Alteration of and no decision come to by the association rules- in general meeting, shall be altered, added to, amended, or cancelled, except by a majority, consisting of at least two-thirds of the members present and voting at any subsequent general meeting.
- 7.** From and after the commencement of this Ordinance all and every property Vesting of property.

belonging to the association, whether held in the name of the association or in the name or names of any person or persons in trust for the association shall be and the same is hereby vested in the corporation hereby constituted and the same together with all after-acquired property, movable or immovable, and all subscriptions, contributions, donations, penalties, amount of loans, and advances received or to be received shall be held by the said corporation for the purpose of this Ordinance and subject to the rules for the time being of the association.

independent of the signing of any person as a witness.

**10.** 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 whether absolutely or in trust. And all such property shall be held by the corporation for the purposes of this Ordinance subject to the rules for the time being of the association with full power (subject to any trust attaching to any such property and the law regulating such trusts) to sell, mortgage, lease, exchange, or otherwise dispose of the same.

Power of corporation to hold property.

**11.** Nothing in this Ordinance 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 Ordinance and those claiming by, from, or under them.

Saving of rights of the Republic and others.

Transfer of liabilities.

**8.** All debts and liabilities of the association existing at the time of the commencement of this Ordinance shall be deemed to be the debts and liabilities of the corporation hereby constituted.

Use and authentication of seal.

**9.** The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of two members of the general committee, who shall sign their names to the instrument in token of their presence, and such signing shall be

**CHAPTER 345**

**EMBARKATION TAX**

*Acts* AN ACT TO PROVIDE FOR THE LEVY AND RECOVERY OF A TAX IN RESPECT OF  
 Nos. 19 of 1961, PERSONS LEAVING SRI LANKA BY SHIP OR AIRCRAFT, AND FOR MATTERS  
 5 of 1971, CONNECTED THEREWITH.  
*Law*  
 No. 32 of 1976.

[25th April, 1961.]

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

Embarkation tax to be levied and paid in respect of persons leaving Sri Lanka by ship or aircraft. [§ 2, Law 32 of 1976.]

**2.** (1) There shall be levied and paid an embarkation tax at such rates as may be specified from time to time by the Minister by Order published in the Gazette—

- (a) in respect of every person leaving Sri Lanka by ship ; and
- (b) in respect of every person leaving Sri Lanka by aircraft—
  - (i) from the Bandaranaike International Airport, Colombo,
  - (ii) from the Colombo International Airport, Ratmalana, or from the Kankasanturai Airport, Jaffna, and
  - (iii) from any other airport:

Provided, however, that the preceding provisions of this subsection shall not apply in the case of—

- (a) children who are less than two years of age;
- (b) officers and members of the crew of that ship or aircraft;
- (c) transit passengers of that ship or aircraft; and
- (d) such other persons as may be prescribed.

(2) Any person who, under subsection (1), is liable to pay embarkation tax is hereafter in this Act referred to as a " person subject to the embarkation tax ".

**3.** No person subject to the embarkation tax shall be permitted to leave Sri Lanka by ship or aircraft without paying such tax.

Persons subject to the embarkation tax not to be permitted to leave Sri Lanka unless such tax is paid.

**4.** (1) Before a person subject to the embarkation tax leaves Sri Lanka by ship or aircraft, such tax shall be collected from such person in the prescribed manner by the operator of that ship or aircraft on behalf of the Government of Sri Lanka.

Embarkation tax to be collected by the operator of ship or aircraft on behalf of the Government of Sri Lanka.

(2) Any embarkation tax collected by the operator of any ship or aircraft shall be retained by such operator on behalf of the Government of Sri Lanka pending its payment to the competent authority under this Act.

(3) Where the embarkation tax due from any person leaving Sri Lanka by ship or aircraft is not collected by the operator of that ship or aircraft, such tax may be recovered from such operator in like manner as though it were a debt due to the State.

**5.** (1) Any embarkation tax collected by the operator of any ship or aircraft from a person leaving Sri Lanka by that ship or aircraft shall, within a period of thirty days from the date of the departure from Sri Lanka of that ship or aircraft, be paid in the prescribed manner by such operator to the competent authority.

Payment of embarkation tax collected by the operator of ship or aircraft to the competent authority.



(2) Where the embarkation tax due from any person leaving Sri Lanka by ship or aircraft is not paid to the competent authority by the operator of that ship or aircraft in accordance with subsection (1), the competent authority may in his discretion order that a sum not exceeding ten *per centum* of the amount of such tax shall be added to such tax and recovered therewith. Any sum so added to such tax shall be deemed to constitute a part of such tax.

other than the remuneration of the officers and servants engaged in such administration and enforcement.

(4) The competent authority shall, after the end of each quarter of each year, furnish to the Minister in charge of the subject of Finance a statement showing the financial position of the Seaport Fund and the Airport Fund in respect of that quarter.

(5) The whole or any part of the surplus which may, at the end of each quarter of any year, be found to the credit of the Seaport Fund after all the payments authorized by this Act to be made out of that Fund have been made, may be applied, in such manner as the Minister in charge of the subject of Finance may from time to time determine, to the improvement of the services and amenities provided for passengers at seaports in Sri Lanka.

(6) The whole or any part of the surplus which may, at the end of each quarter of any year, be found to the credit of the Airport Fund after all the payments authorized by this Act to be made out of that Fund have been made, may be applied, in such manner as the Minister in charge of the subject of Finance may from time to time determine, to the improvement of the services and amenities provided for passengers at airports in Sri Lanka.

**6.** (1) There shall be established, for the purposes of this Act, a Seaport Fund and an Airport Fund. Each such Fund shall be administered by the competent authority subject to the general direction and control of the Minister in charge of the subject of Finance.

(2) The competent authority shall pay—

- (a) to the Seaport Fund all sums paid or recovered as embarkation tax under this Act in respect of persons leaving Sri Lanka by ship, and
- (b) to the Airport Fund all sums paid or recovered as embarkation tax under this Act in respect of persons leaving Sri Lanka by aircraft.

(3) There shall be paid—

- (a) out of the Seaport Fund the expenses incurred in the administration and enforcement of such of the provisions of this Act and the regulations made thereunder as relate to the levy and recovery of the embarkation tax in respect of persons leaving Sri Lanka by ship, and in the administration of that Fund, and
- (b) out of the Airport Fund the expenses incurred in the administration and enforcement of such of the provisions of this Act and the regulations made thereunder as relate to the levy and recovery of the embarkation tax in respect of persons leaving Sri Lanka by aircraft, and in the administration of that Fund,

**7.** The operator of any ship or aircraft shall, when requested to do so by the competent authority, furnish to the competent authority such information within the knowledge of that operator in regard to the passengers transported from Sri Lanka by that ship or aircraft as the competent authority may require for the purposes of this Act.

Information necessary for the purposes of this Act to be furnished by the operator of any ship or aircraft to the competent authority.

**8.** (1) For the purpose of verifying the correctness of any information furnished by the operator of any ship or aircraft in pursuance of this Act or for the purpose of securing compliance with the provisions of this Act or of any regulations made thereunder, the competent authority may—

Powers of entry and inspection of premises and documents.

- (a) enter any premises in Sri Lanka used by such operator for the purposes of his business as a carrier of passengers by ship or aircraft; and

Seaport Fund and Airport Fund,

(b) inspect and take copies of any such record of passengers transported from Sri Lanka by any ship or aircraft of that operator as is kept by that operator (whether in pursuance of this Act or otherwise) in relation to his business.

(2) The competent authority may, for the purpose of securing compliance with the provisions of this Act or of any regulations made thereunder, enter on board any ship or aircraft arriving in or departing from Sri Lanka and require the master of that ship or the captain of that aircraft to produce for inspection by the competent authority any document which contains information regarding the passengers to be transported by that ship or aircraft.

Offences. **9.** Any person who—

(a) contravenes any of the provisions of this Act or of any regulation made thereunder, or

(b) furnishes any false information to the competent authority,

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 six months or to a fine not exceeding one thousand rupees or to both such fine and imprisonment.

Prosecutions to be by or with written sanction of competent authority. **10.** No prosecution for an offence under this Act shall be instituted except by or with the written sanction of the competent authority.

Regulations. **11.** (1) The Minister may make regulations for the purpose of carrying out the provisions or giving effect to the principles 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) any matter stated or required by this Act to be prescribed ;

\* 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—Vide section 86 (3) thereof.

(b) the imposition of such conditions or restrictions on the departure of ships and aircraft from Sri Lanka as are considered necessary for the purpose of securing compliance with the provisions of this Act.

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

**12.** The powers conferred on a competent authority by or under this Act, other than the power to sanction a prosecution conferred by section 10, may be exercised on his behalf by any other officer acting under the general or special directions of such authority. Powers of competent authority exercisable by authorized officers.

**13.** In this Act unless the context otherwise requires— Interpretation.

" captain", in relation to an aircraft, means the person for the time being in charge, command or control of that aircraft;

" competent authority ",—

(a) with reference to all matters relating to the embarkation tax in respect of persons leaving Sri Lanka by ship, the operators of ships, and the Seaport Fund, means the Port Commissioner\*, Colombo; and

(b) with reference to all matters relating to the embarkation tax in respect of persons leaving Sri Lanka by aircraft, the operators of aircraft, and the Airport Fund, means the Director of Civil Aviation;

" master ", in relation to a ship, means the person for the time being in charge, command or control of that ship ;

" operator"—

(a) in relation to a ship, means the owner, agent or master of that ship; and

(b) in relation to an aircraft, means the owner, agent or captain of that aircraft.

**CHAPTER 407**

**EMBILIPITIYA YOUNG MEN'S BUDDHIST ASSOCIATION**

*Law*  
No. 49 of 1975.

A LAW TO INCORPORATE THE EMBILIPITIYA YOUNG MEN'S BUDDHIST ASSOCIATION.

[23rd December, 1975.]

Short title.

**1.** This Law may be cited as the Embilipitiya Young Men's Buddhist Association Law.

**4.** (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 to be elected in accordance with the rules in force for the time being of the Corporation.

Incorporation of the Embilipitiya Young Men's Buddhist Association.

**2.** From and after the date of the commencement of this Law the President, Vice-President, and members of the Committee of Management for the time being of the said Embilipitiya Young Men's Buddhist Association, and such and so many persons as now are members of the Embilipitiya Young Men's Buddhist Association, hereinafter referred to as "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 style and name of the "Embilipitiya Young Men's 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 alter the same at their pleasure.

(2) 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.

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 practical observance of Buddhism and encouraging Buddhists to live according to the principles of Buddhism,
- (c) the promotion of unity and co-operation among Buddhists, and
- (d) the advancement of the physical, intellectual and social welfare of members.

**5.** (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 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, provided that such alteration, addition, amendment or cancellation shall have been previously approved by the Committee of Management.

(3) 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.

in token of their presence, and such signing shall be independent of the signing of any person as a witness.

Debts due by and payable to the Association.

6. 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 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 property, movable and immovable.

How the seal of the Corporation is to be affixed.

7. 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

9. 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.

Saving of the rights of the Republic and others.

CHAPTER 240

FISHERIES

*Ordinance* AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO FISHERIES  
 No. 24 of 1940, AND TO THE TAKING AND PROTECTION OF FISH IN SRI LANKA FISHERIES  
*Acts* WATERS. TO PROVIDE FOR THE REGISTRATION OF LOCAL FISHING BOATS, K)R  
 Nos. 17 of 1950. FHF BETTER REGULATION OF THE FISHING INDUSTRY AND FOR PURPOSES  
 25 of 1952, INCIDENTAL TO OR CONNECTED WITH THE MATTERS AFORESAID.  
 30 of 1956.  
*Laws*  
 Nos. 20 of 1973,  
 46 of 1973,  
 7 of 1976.  
*Act*  
 No. 59 of 1979.

[1st June. 1941.]

Short title. 1. This Ordinance may be cited as the Fisheries Ordinance.

OFFICERS. ADVISORY BOARD. &c.

Appointment of Director and other officers.

2. (1) There may be appointed —
- (a) a person, by name or by office, to be or to act as Director of Fisheries;
  - (b) one or more persons, by name or by office, to be or to act as Deputy Directors of Fisheries ; and
  - (c) such other officers as may from time to time be required for the purposes of this Ordinance.

(2) Subject to the general direction and control of the Minister, the Director shall be responsible for the administration of the provisions of this Ordinance-

[§2, Law 46 of 1973.]

(3) Any person appointed under subsection (1) to be or to act as a Deputy Director of Fisheries may, subject to the control of the Director, exercise all or any of the powers conferred on the Director by or under this Ordinance.

(4) All officers appointed under this section shall be deemed to be public servants within the meaning of the Penal Code.

(5) All officers (not below the rank of Preventive Sergeant) appointed under this

section are hereby declared to be peace officers within the meaning and for the purposes of the Code of Criminal Procedure Act.

3. (1) There shall be a Fisheries Advisory Board which shall consist of—

Establishment of Fisheries Advisory Board.

- (a) the Director as chairman ;
- (aa) one or more Deputy Directors of Fisheries appointed by the Minister; [§3, Law 46 of 1973.]
- (b) the persons for the time being holding the offices of Director of Commerce, Commissioner for the Development of Marketing, Master Attendant of the port of Colombo\* and Registrar of Co-operative Societies; [§3, Law 46 of 1973.]
- (c) two officers from the Ministry charged with the subject of Industries appointed by the Minister in charge of that subject; and
- (d) such other unofficial members, not less than ten in number, as the Minister may from time to time appoint.

(2) Any of the officers mentioned in paragraphs (a), (b) and (c) of subsection (1) who is unable to attend any meeting of the board may authorize any other officer of his

\* See sections 2 and 86 (3) of the Sri Lanka Ports Authority Act.

department to be present on his behalf at such meeting; and the officer so authorized shall be deemed for the purposes of the meeting to be a member of the board.

(3) Subject as hereinafter provided, each member of the board who is appointed under subsection (1) (d) 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 :

Provided that any member of the board may at any time resign from the board or be removed therefrom by order of the Minister;

Provided further that an unofficial member of the board appointed under paragraph (d) of subsection (1) shall, if he absents himself from three consecutive meetings of the board without notifying a reasonable excuse to the chairman, cease to be a member of the board.

(4) 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 :

Provided that the board may regulate its own procedure in any matter not provided for by regulation.

Duties, powers and functions of the board.

4. It shall be the duty of the board—

(a) to advise the Director on all such matters relating to fisheries and the fishing industry in Sri Lanka, or to the administration of this Ordinance, as the Director may refer to the board for advice ;

(b) to perform and exercise such duties and powers as may be prescribed or entrusted to it by or under this Ordinance:

Provided, however, that nothing hereinbefore contained shall be deemed to preclude the board from making any recommendation to the Director on any

matter referred to in paragraph (a), notwithstanding that it may not have been referred to the board for advice.

REGISTRATION OF LOCAL FISHING BOATS

\*9. Regulations may be made providing for the registration of local fishing boats used for the purpose of taking fish in Sri Lanka fisheries waters, and of the owners of such boats.

Registration of local Fishing boats.

10. On or after such date as may be prescribed, no person shall use any local fishing boat for the purpose of taking fish in Sri Lanka fisheries waters, unless the boat has been registered under this Ordinance.

Prohibition of use of unregistered local Fishing boats in Sri Lanka fisheries waters.

11. (1) On or after such date as may be prescribed, no person shall, except under the authority of a permit issued in that behalf by a prescribed officer, land at any port or place in Sri Lanka any fish taken outside Sri Lanka fisheries waters unless—

Regulation of landing of fish taken outside Sri Lanka fisheries waters.

(a) such fish was taken by a fishing boat duly registered under this Ordinance; or

(b) such fish was, before being brought to land in Sri Lanka, previously landed at a port or place outside Sri Lanka.

(2) Regulations may be made exempting any specified class or classes of persons from the operation of the provisions of subsection (1).

(3) A prescribed officer may, in such circumstances and upon such grounds as may be prescribed, refuse to issue to any person a permit under this Ordinance to land in Sri Lanka fish taken outside Sri Lanka fisheries waters. An appeal shall lie to the Minister from any such refusal, and the decision of the Minister upon such appeal shall be final.

! Sections 5, 6, 7 and S are repealed by Act No. 59 of 1979.

\* The expression "Sri Lanka fisheries waters" has replaced the expression "Ceylon waters" throughout this Chapter, relying on section 7 of the Fisheries (Regulation of Foreign Fishing Boats) Act, which reserves the exclusive right of fishing for local fishing boats in prescribed areas of Sri Lanka waters.

**PROTECTION OF FISH**

Restriction of exportation of specified fish, eggs, &c.

**12.** (1) No person shall, except under the authority of an export permit issued by the Director in that behalf, export from Sri Lanka any live fish, or the eggs, roe or spawn of any fish, which is of a species for the time being included in the First Schedule\*.

(2) The provisions of the First Schedule\* may from time to time be added to or otherwise amended by regulation.

(3) This section shall have effect as though it formed part of the Customs Ordinance, and the provisions of that Ordinance shall apply accordingly.

Restriction of importation of non-indigenous fish.

**13.** (1) Subject to the provisions of subsection (2), no person shall, except under the authority of an import permit issued by the Director in that behalf, import into Sri Lanka any live fish or the eggs, roe or spawn of any fish.

(2) No import permit shall be required to authorize the importation into Sri Lanka of any live fish of any species for the time being included in the Second Schedule! or the eggs, roe or spawn of any such fish.

(3) This section shall have effect as though it formed part of the Customs Ordinance, and the provisions of that Ordinance shall apply accordingly.

Prohibition of use of poison, explosives, &c.

**14.** No person shall in Sri Lanka fisheries waters use any poisonous, explosive or stupefying substance for the purpose of poisoning, killing or stupefying any fish.

Prohibition of possession, sale and transport of fish taken by poison, &c. [§2, Law 20 of 1973.]

**15.** No person shall possess, sell, expose for sale or transport, any fish which has been taken by the use of any poisonous, explosive or stupefying substance, whether such fish has been taken in Sri Lanka fisheries waters or outside Sri Lanka fisheries waters;

Provided that it shall be a defence for a person prosecuted for the possession or transport of any fish, to prove that he did

not know, or had no reasonable cause to believe, that such fish had been taken by the use of any poisonous, explosive or stupefying substance.

**16.** No person shall

(a) wilfully damage or destroy any fishing stakes, nets or other fishing equipment belonging to any other person;

(b) manufacture, sell, expose for sale or have in his possession, any instrument serving only or intended to damage or destroy fishing slakes, nets or other fishing equipment.

Prohibitions as to damage to or destruction of fishing equipment.

**17.** (1) Where the Director is satisfied that adequate arrangements have been made by any club or association for the preservation and protection, in any stream or inland water, of any fish of any species for the time being included in the Second Schedule,! the Director may, with the approval of the Minister, by writing under his hand, grant to such club or association the exclusive right to take such fish in such stream or inland water within such limits and for such period and subject to such conditions as the Minister may determine.

Grant of exclusive right to take specified non-indigenous fish.

(2) The provisions of the Second Schedule! may from time to time be added to or otherwise amended by regulation.

(3) Where the exclusive right to take any fish in any stream or inland water is granted to any club or association under subsection (1), such club or association may make rules for the preservation and protection in such stream or inland water, of the fish to which the right relates and for the regulation of the time and manner of taking such fish, and such rules may, without prejudice to the generality of the powers hereinbefore conferred, provide for all or any of the following matters :—

(a) the issue by the club or association of licences authorizing the taking of such fish, the conditions subject to which such licences may be issued,

! First Schedule is not reproduced in this Edition - See List of Enactments omitted from the Revised Edition.

+ Second Schedule is not reproduced in this Edition - See List of Enactments omitted from the Revised Edition.

the fees payable therefor, and the purposes for which such fees shall be applied ;

(b) the prohibition or restriction of the taking of such fish during specified seasons.

(4) No rule made under subsection (3) shall have effect unless it is approved by the Minister and published in the Gazette.

(5) Any exclusive right granted or deemed to be granted under this section may be withdrawn in such manner and in such circumstances as may be prescribed.

Breach of rules under section 17.

**18.** No person shall take any fish in any stream or inland water in contravention of any rules made under section 17 relating to the taking of such fish in such stream or water.

Section 10 not to apply in cases referred to in section 17.

**19.** The provisions of section 10 shall have no application in the case of any person who takes any fish, or of any fishing boat used for the purpose of taking fish, in any stream or inland water, if the exclusive right of taking any fish in such stream or water is granted to any club or association under section 17.

**FISHING DISPUTES**

Fishing disputes.

**20.** (1) Where any fishing dispute arises or is apprehended, the Minister may, if he considers it expedient so to do, refer the dispute and all matters relating thereto, connected therewith or arising therefrom for public inquiry and report to any person or to a committee of not more than three persons appointed by him for the purpose. Where a committee is so appointed, one of the members nominated by the Minister in that behalf shall be the chairman.

(2) A reference made to any person or committee under subsection (1) shall specify the subject-matter of the fishing dispute to which it relates and shall require that person or committee to hold a public inquiry into and report on not only the subject-matter of that dispute but also all such matters relating to, connected with or arising from that dispute as may be mentioned in any representations that may be made in

accordance with the provisions of this section to that person or committee. The Minister shall publish a copy of the reference in the Gazette, and judicial notice shall be taken by all courts in Sri Lanka of the reference so published.

(3) It shall be the duty of the person or committee to whom a dispute is referred under subsection (1)—

(a) to cause notice to be published in the Gazette—

(i) specifying the subject-matter of the dispute;

(ii) calling upon all persons desiring so to do to make written representations regarding the dispute or any matter relating thereto, connected therewith or arising therefrom, to the office of the Director before such date as may be specified in the notice ; and

(iii) appointing a time and place for the commencement of a public inquiry into the subject-matter of the dispute and any matters relating thereto, connected therewith or arising therefrom ; and

(b) to cause copies of the notice in Sinhala and in Tamil to be posted at the police stations, post offices and other suitable places in the area in which persons interested in the subject-matter of the dispute are believed to reside.

(4) Any person who is affected by a fishing dispute regarding which a notice is published under subsection (3) or by any matter relating to, connected with or arising from such dispute shall be entitled to be present and to make representations relating to such dispute or matter and to tender evidence, whether oral or documentary, in support of his representations at the public inquiry into such dispute.



(5) It shall be lawful for the person or committee holding a public inquiry into a fishing dispute under this section by order to require any person to give evidence at the public inquiry and to produce thereat any such document in his custody or possession as is relevant to the subject-matter of that dispute or to any matter relating to, connected with or arising from that dispute.

(6) The person or committee holding a public inquiry under this section may in his or their discretion require that oral evidence given at the inquiry shall be given on oath.

(7) Any person who fails or refuses to comply with any order made under subsection (5) or who gives false evidence at any public inquiry held 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 five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

(8) Regulations may be made providing for the procedure to be followed at public inquiries held under this section. Subject to the provisions of any such regulation, the person or the committee to whom a dispute is referred under subsection (1) may determine the procedure to be followed at the public inquiry.

(9) It shall be the duty of the person or committee to whom a dispute is referred under subsection (1), after considering such representations as may have been made and such evidence as may have been given regarding the subject matter of the dispute and any matters relating thereto, connected therewith or arising therefrom, to prepare a report containing the findings upon the matters inquired into and such recommendations as that person or committee may consider necessary in regard to those matters and the rights, restrictions or prohibitions which should be conferred or imposed with respect to the taking of fish in the waters in relation to which the dispute arose or is apprehended.

Such report shall be read out at the conclusion of the public inquiry or on a

date to which the inquiry shall be adjourned for the purpose, and shall be published in the Gazette.

(10) Any person who is affected by any fishing dispute into which a public inquiry is held under this section or by any matter relating to, connected with or arising from that dispute may, before the expiration of a period of one month from the date of the publication in the Gazette of the report prepared under subsection (9) in relation to that dispute, make representations in writing to the Minister with respect to any matter dealt with in the report.

(11) The Minister, after considering the report published under subsection (9) in respect of any fishing dispute and any representations made to him under subsection (10) with reference to that report, may make regulations regarding the subject-matter of that dispute or any matter relating thereto, connected therewith or arising therefrom, including regulations for the purpose of—

[§ 3. Law 20 of 1973.]

- (a) prohibiting, restricting or regulating the taking of fish in any specified part of Sri Lanka fisheries waters by persons not belonging to any specified group or section of persons; or
- (b) fixing different days or times during which different groups or sections of persons engaged in fishing may take fish in any specified part of Sri Lanka fisheries waters, or
- (c) cancelling the registration of any fishing net and of the owner thereof and registering, in place of such fishing net and owner, any other fishing net and the owner thereof.

(12) Nothing in the preceding provisions of this section shall be deemed or construed to authorize the reference thereunder of any dispute in relation to the subject-matter of which any civil action or other civil proceeding is pending before any court of competent jurisdiction.

(13) Where a fishing dispute has been referred for public inquiry and report under the preceding provisions of this section,

then, notwithstanding anything in any other law, no civil action or other civil proceeding shall in respect of any matter constituting or comprised in the subject-matter of the dispute be instituted or maintained in any civil court at any time before the expiration of a period of three months from the date of the publication in the Gazette of the report prepared under subsection (9) in relation to that dispute.

(14) In this section "fishing dispute" means any dispute, between two or more groups or sections of persons engaged in fishing, in regard to the right to take fish, or to the time or manner of taking fish in any part of Sri Lanka fisheries waters.

Interim Orders in respect of Fishing disputes. [§ 4, Law 20 of 1973.]

**20A.** (1) Where the Minister apprehends that any fishing dispute which has been referred for public inquiry and report under section 20 is likely to result in a breach of the peace, the Minister may, by Order published in the Gazette, make all such provisions in respect of the matters referred to in paragraph (a) or paragraph (b) or paragraph (c) of subsection (11) of that section as he may deem necessary to prevent such breach of the peace.

(2) Any Order made by the Minister under subsection (1) in respect of any fishing dispute shall come into force on the date of its publication in the Gazette and shall cease to be in force on the date of the coming into force of regulations made by the Minister under section 20 in respect of that dispute:

Provided that the Minister may, before the coming into force of such regulations, revoke the said Order by Order published in the Gazette.

[§ 2, Law 7 of 1976.]

POWERS OF OFFICERS. OFFENCES,  
REGISTRATION OF MORTGAGES,  
REGULATIONS, &C.

Power of inspection, &c.

**21.** The Director or any prescribed officer, or any person authorized in writing by the Director either generally or specially in that behalf, may—

- (a) go on Board any fishing boat which is for the time being within Sri Lanka fisheries waters and may make such examination of the boat,

the personnel of the crew thereof, the nets and other equipment carried therein and the fish found therein, as may be necessary for the purpose of ascertaining whether any provision of this Ordinance or of any regulation has been contravened ;

- (b) examine any fishing nets, fishing kraals, fishing stakes or other fishing equipment, which may be found in Sri Lanka fisheries waters ;
- (c) enter any premises in which fish is stored, kept or cured for profit, or in which any aquarium is maintained for profit, and examine any fish found therein for the purpose of ascertaining whether any provision of this Ordinance or of any regulation has been contravened.

**22.** (1) Any officer appointed under section 2(1) may, if he has reason to believe that any offence under this Ordinance has been committed, seize and detain any local fishing boat, or any fishing net or stake, or other equipment or instrument or any vehicle used in or in connexion with the commission of the offence, or any fish in respect of which the offence is believed to have been committed.

Power to seize nets, &c. [§5, Law 20 of 1973]

(2) Where any article is seized under subsection (1), the officer by whom the article was seized shall, as soon as possible, produce that article before or make it available for inspection by a Magistrate's Court of competent jurisdiction; and the court shall make such order as it may deem fit relating to the custody of the article pending its disposal under subsection (3).

(3) Where any article is seized under subsection (1) from the possession of any person—

- (a) it shall be returned to that person forthwith upon the expiration of fourteen days after the seizure, unless a prosecution for the alleged offence is instituted before the end of that period ; or

(b) it shall, forthwith after the final determination of the prosecution, be returned to that person or to such other person as is considered by the court to be entitled to its possession unless it is duly declared to be forfeited to the State under subsection (2) of section 30.

used in such waters, that person shall be presumed, until the contrary is proved, to have used such substance for the purpose aforesaid.

(2) Where any poisonous, explosive or stupefying substance, which can be used for the purpose of poisoning, killing or stupefying fish, is found in the possession or control of any person in a fishing boat in Sri Lanka fisheries waters, that person shall be presumed, until the contrary is proved, to have attempted to use such substance for the purpose aforesaid.

Presumption as to the taking of fish.

**23.** (1) For the purpose of this Ordinance it shall be presumed until the contrary is proved

(a) that where any fish is found at any time in any fishing boat at any place in Sri Lanka or in Sri Lanka fisheries waters, such fish was taken

(i) by the owner of that boat, if he is in the boat at that time or if no person is found in the boat at that time, or

(ii) by the person for the time being in the boat and in charge thereof, if the owner is not in the boat at that time;

\*(c) that where any fishing boat which has not been registered is at any time within Sri Lanka fisheries waters, any fish found in that boat at that time was taken for profit in Sri Lanka fisheries waters;

(d) that any fish which is not taken for sport, scientific research or for any other prescribed purpose, is taken for profit.

**25.** Where any net, the use of which in any specified part of Sri Lanka fisheries waters is prohibited by any regulation made under this Ordinance, is found in the possession or under the control of any person within a distance of a quarter of a mile from such waters, then, for the purposes of any prosecution for a contravention of that regulation that person shall be presumed, until the contrary is proved, to have used such net in such waters.

Presumption as to use of net in prohibited waters.

**26.** (1) Any person who acts in contravention of any provision of this Ordinance 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 six months or to both such fine and imprisonment.

Offences and penalties.

(2) Any person who acts in contravention of any provision of any regulation or of any Order made under section 20A or of any condition lawfully inserted in any fishing licence or permit granted under this Ordinance, shall be guilty of an offence and shall be liable to a fine not exceeding five hundred rupees.

[§ 7, Law 20 of 1973.]

[§ 6, Law 20 of 1973.]

(2) In any prosecution for a contravention of any of the provisions of section 14 in respect of any fish, it shall be presumed, until the contrary is proved, that such fish was taken in Sri Lanka fisheries waters.

Presumptions as to use of poison, &c.

**24.** (1) Where any poisonous, explosive or stupefying substance, which can be used for the purpose of poisoning, killing or stupefying fish, is found in the possession or control of any person in the neighbourhood of any Sri Lanka fisheries waters, shortly after such substance is proved to have been

(3) A person who acts in contravention of any provision of any regulation or of any Order made under section 20A shall, in addition to any other penalty which may be imposed under subsection (2), be liable to a fine of one hundred rupees for each day during which the contravention is continued after conviction thereof.

[§ 7, Law 20 of 1973]

• Paragraph (b) is repealed by Act No. 59 of 1979.

(4) Any person who attempts or conspires to commit any offence under this Ordinance shall be deemed to be guilty of that offence.

Special penalties for certain offences. [§ 8, Law 20 of 1973.]

27. (1) Any person who acts in contravention of any of the provisions of section 14 or section 15 shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not less than two thousand five hundred rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment or on a second or subsequent conviction to a fine not less than three thousand rupees or to imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment.

(2) Any officer appointed under section 2 (1) who shall—

- (a) be guilty of cowardice, or
- (b) wilfully fail in his duty to report any offence against this Ordinance, or
- (c) connive at the commission of any offence against this Ordinance,

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.

(3) The preceding provisions of this section shall have effect notwithstanding anything in section 26.

Offence under section 14 to be non-bailable.

28. Notwithstanding anything in the First Schedule to the Code of Criminal Procedure Act, an offence under section 14 of this Ordinance shall be a non-bailable offence within the meaning and for the purposes of that Act.

Offences to be cognizable.

29. Notwithstanding anything in the First Schedule to the Code of Criminal Procedure Act, every offence under this Ordinance shall be a cognizable offence within the meaning of that Act.

Cancellation of licences and permits. forfeiture of boats, fish, &c.

30. (1) Where the holder of a fishing licence or of a permit granted or issued under this Ordinance is convicted by a Magistrate of any offence under this

Ordinance, the Magistrate may make order cancelling the licence or permit.

(2) The Magistrate may, on the conviction of any person of any offence under this Ordinance, make order declaring that any fishing boat, or any fishing net or stake, or other equipment or instrument or any vehicle used in or in connexion with the commission of the offence, or any fish in respect of which the offence was committed shall be forfeited to the State :

[§ 9, Law 20 of 1973.]

Provided that in the case of a conviction of an offence under section 14 or section 15, the Magistrate shall make order as aforesaid unless it is proved that the fishing boat, fishing net or stake, or other equipment or instrument or vehicle belongs to a person other than the person convicted and that the owner thereof had no knowledge that it would be used in or in connexion with the commission of the offence.

31. Where any offence under this Ordinance is committed by any person in any part of the sea which is within Sri Lanka fisheries waters, the Magistrate's Court having jurisdiction—

Jurisdiction over offences committed at sea.

- (a) over that part of the coast nearest to the place at which the offence was committed ; or
- (b) over the place at which the person comes ashore after the commission of the offence,

shall have jurisdiction to try the offence.

32. No action shall lie against the Government of Sri Lanka or against any officer appointed under section 2 (1) for damages in any civil court for any act bona fide done or ordered to be done in pursuance of this Ordinance; and no prosecution of any such officer and no action which may be lawfully brought against any such officer, in respect of anything done in pursuance of this Ordinance, shall be entertained by any court unless it is instituted within six months from the date of the act complained of.

Bar of actions.

32A. (1) Every instrument creating a mortgage of a fishing boat (hereinafter referred to as an " instrument of mortgage ") whether executed before, on or after the

Registration of instruments of mortgage. [§3, Law 7 of 1976.]

relevant date, shall be presented to the Director for registration.

(2) Each instrument of mortgage shall, in the order in which it is presented, be registered by the Director in the prescribed manner—

- (a) in the case of a mortgage of a fishing boat registered prior to the relevant date, in the prescribed register of mortgages; and
- (b) in the case of a mortgage of a fishing boat registered on or after the relevant date, in the prescribed register of fishing boats.

**32B.** Where there are more instruments of mortgage than one registered in respect of the same fishing boat, such instruments shall be entitled to priority one over the other, according to the date on which each instrument is registered and not according to the date of the execution of each instrument:

Provided that fraud or collusion in securing the prior registration of any instrument of mortgage shall defeat the priority of the person claiming thereunder.

**32C.** Notwithstanding anything in any other law, where an instrument of mortgage of a fishing boat is registered under section 32A any sale or other disposition of the fishing boat by or against the mortgagor shall not, so long as the mortgage continues in force, extinguish or be deemed to extinguish the mortgage of the fishing boat which shall remain subject to the mortgage in the hands of the transferee or other person in whose favour such disposition is effected.

**32D.** Where a registered mortgage of a fishing boat is discharged the Director shall, on production of the instrument of mortgage with a receipt for the payment of the mortgage money endorsed thereon, duly signed and attested, make an entry in the register in which the mortgage is registered to the effect that the mortgage has been discharged.

**32E.** A registered mortgage of a fishing boat shall not be affected by any act of bankruptcy committed by the mortgagor after the date of registration of the mortgage, notwithstanding that the mortgagor at the commencement of his

bankruptcy had the fishing boat in his possession, order or disposition or was reputed owner thereof; and the mortgage shall be preferred to the right, claim or interest therein of the other creditors of the bankrupt, or any trustee or assignee on their behalf.

**32F.** (1) A registered mortgage of a fishing boat may be transferred to any person and the instrument effecting the transfer (hereinafter referred to as an "instrument of transfer") shall be in the prescribed form. Every instrument of transfer whether executed before, on or after the relevant date shall be presented to the Director for registration.

(2) Every instrument of transfer shall be registered by the Director in the prescribed manner in the register in which the mortgage is registered,

(3) The person to whom any such mortgage has been transferred shall enjoy the same priority as was enjoyed by the transferor.

**32G.** (1) Where the interest of a mortgagee in a fishing boat is transmitted by bankruptcy, death or by any lawful means, other than by a transfer under section 32F, the person to whom the interest is transmitted shall—

- (a) make a declaration to the Director stating his name and the manner in which the property has been transmitted ; and
- (b) produce to the satisfaction of the Director evidence of the transmission of the interest of the mortgagee in the fishing boat.

(2) The Director shall, on receipt of the declaration and on production of the evidence referred to in subsection (1) enter in the register in which the mortgage is registered the name of the person entitled under the transmission as mortgagee of the fishing boat.

(3) The person to whom the interest of a mortgagee is transmitted by bankruptcy, death or by any lawful means, other than by a transfer under section 32F, shall enjoy the same priority as was enjoyed by such mortgagee.

Transfer of mortgages and Registration. [§ 3, Law 7 of 1976.]

Transmission of interest in mortgage on bankruptcy, &c. [§ 3, Law 7 of 1976.]

Priority of instruments of mortgage. [§ 3, Law 7 of 1976.]

Registered mortgage of fishing boat to subsist notwithstanding sales. &c., to third parties. [§ 3, Law 7 of 1976.]

Entry of discharge of mortgage. [§ 3, Law 7 of 1976.]

Mortgage not affected by bankruptcy- [§ 3, Law 7 of 1976.]

Searches and copies. [§ 3. Law 7 of 1976]

**32H.** All registers, books and documents kept under this Ordinance may be searched and examined by any person claiming to be interested therein or by his attorney-at-law or agent duly authorized thereto in writing, and certified copies or extracts from any such register, book or document may be obtained from the Director if required.

of different classes of boats or boats used for different purposes or in different areas), and the marking of registered boats and of the fishing nets and other fishing equipment carried therein;

Evidence. [§ 3. Law 7 of 1976.]

**32J.** A copy or extract purporting to be certified under the hand of the Director to be a true copy of or extract from any register, book or document kept pursuant to this Ordinance shall be admissible in evidence without proof of the signature or appointment of the Director, and shall be prima facie evidence of the contents of such register, book or document for all purposes and in all proceedings, civil or criminal.

(dd) all matters relating to mortgages of fishing boats and the registration of mortgages, discharge of mortgages, transfer of mortgages and the transmission of the interest of mortgages, including the fees to be paid for registration, the form of registers to be, used for registration and the manner in which registration is to be made; [§ 4. Law 7 of 1976.]

Other written law not to apply. [§ 3, Law 7 of 1976.]

**32K.** The provisions of any written law, other than this Ordinance, requiring the registration under that law of any instrument creating the mortgage of movable property shall not apply to an instrument of mortgage.

\*(h) the issue of export and import permits, the fees payable therefor, the conditions to be attached thereto, and the circumstances in which or the grounds upon which such permits may be refused ;

Regulations.

**33.** (1) The Minister may make regulations for the regulation and control of the fishing industry, for the protection of fish in Sri Lanka fisheries waters, and generally for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(i) the prohibition or restriction of the taking of fish during any specified period, and the establishment of close seasons;

(2) 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:—

(j) the prohibition of the use of any specified equipment, device or substance for the purpose of, or in connexion with, the taking of fish, and the regulation of the time and manner of taking fish;

(a) all matters stated or required in this Ordinance to be prescribed or for which regulations are authorized or required to be made under this Ordinance;

(k) the registration of fishing nets or other specified fishing equipment used in Sri Lanka fisheries waters or any part of such waters and of the owners thereof, including the circumstances in which such registration may be refused, the officers and servants by whom such nets or other specified fishing equipment shall be registered, the fees payable for such registration (including different fees in respect of different kinds of nets or other specified fishing equipment or of nets or other equipment used for different purposes or in different areas), and the marking of registered fishing nets or other registered fishing equipment;

\*(b) the registration of local fishing boats used in Sri Lanka fisheries waters and of the owners thereof, including the officers or persons by whom such boats shall be registered, the fees payable for such registration (including different fees in respect

• Paragraphs (b), (c), (e), (f) and (g) are repealed by Act No. 59 of 1979.

- (l) the regulation of the kind of fishing nets or other fishing equipment to be used, and the prohibition or restriction of the possession or use of fishing nets or other fishing equipment of any specified description, for the purpose of taking fish in Sri Lanka fisheries waters or any part thereof, and where such regulation or restriction is by means of licences, the charging of fees for such licences;
- (m) the regulation of the exercise of the powers conferred by section 21;
- (n) the prohibition, regulation or control of the erection and use of fishing stakes, fish kraals, stake-nets and other such appliances for taking fish;
- (o) the charging of fees in respect of fishing and of the use of fish kraals in Sri Lanka fisheries waters, and the disposal of such fees;
- (p) the prohibition or restriction of the taking or sale of fish of a smaller size than such size as may be prescribed ;
- (q) the returns and information to be furnished by persons who take fish for profit in Sri Lanka fisheries waters;
- (r) the detention and disposal of any fish, or of any boats, nets, instruments or other equipment or any vehicle declared to be forfeited to the State under this Ordinance;
- (s) all matters incidental to or connected with the matters specifically referred to in this subsection.

(3) Any regulation made for or in respect of any of the matters referred to in paragraphs (i) to (p) of subsection (2) may be limited in application to fish of any specified class or description, or in operation to any specified part of Sri Lanka fisheries waters or to the waters in any specified place or area in Sri Lanka.

(4) No regulation made by the Minister shall have effect until it has been approved by Parliament and notification of such approval is published in the Gazette. Every regulation shall upon notification of such approval be as valid and effectual as if it were herein enacted.

**34.** (1) A fund to be called the Fisheries Reward Fund (hereinafter referred to as the "fund") is hereby established. Fisheries Reward fund

(2) There shall be paid into the fund all fines recovered under this Ordinance and all sums of money realized by the disposal of articles forfeited under this Ordinance.

(3) The Director may, in his discretion, pay a reward to any officer appointed under section 2 (1) or informer out of the moneys in the fund :

Provided, however, that no such reward shall exceed fifty rupees unless the Director has obtained the approval of the Secretary to the Ministry charged with the subject of Fisheries (hereinafter referred to as "the Secretary").

(4) Where any witness incurs travelling expenses in attending court for the purpose of giving evidence at any trial in respect of an offence under this Ordinance which are not payable to him under any other law, the Director may pay to such witness out of the moneys in the fund such amount as may be determined by him to cover the cost of the expenses properly so incurred :

Provided that no such payment shall exceed fifty rupees unless the Director has obtained the approval of the Secretary.

(5) The Director shall be responsible for the administration of the fund and accounts of the fund shall be audited annually by the Auditor-General.

**35.** In this Ordinance, unless the context otherwise requires— Interpretation.

"appointed date" means the 1st day of June, 1941;

"board " means the Fisheries Advisory Board established under section 3 ;

"Director" means the Director of Fisheries appointed under section 2;

"fish" means any variety of marine, fluviomarine or fresh-water fishes, *Crustacea* or *mollusca*, and includes every aquatic animal which derives its sustenance wholly or mainly in water, but does not include—

- (a) chanks,
- (b) pearl oysters within the meaning of the Pearl Fisheries Ordinance ;
- (c) whales to which the Whaling Ordinance applies; or
- (d) any reptile for the time being included in Schedule I to the Fauna and Flora Protection Ordinance ;

" fishing boat" means a vessel of whatever size, and in whatever way propelled, which is for the time being employed for the purpose of taking fish;

" for profit ", when used with reference to the taking of any fish, means the taking of such fish for the purpose of trade or sale ;

" inland or internal waters" means any part of Sri Lanka fisheries waters other than the territorial sea of Sri Lanka;

[§27, 59 of 1979.]

" local fishing boat" has the same meaning as in the Fisheries (Regulation of Foreign Fishing Boats) Act;

" prescribed " means prescribed by regulation;

" registered " means registered under this Ordinance ;

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

[§ 5, Law 7 of 1976.]

" relevant date" means such date as may be fixed for the purposes of this Ordinance by the Minister by order published in the Gazette ;

"Sri Lanka fisheries waters " means such areas of Sri Lanka waters as may be prescribed by the Minister under section 7 of the Fisheries (Regulation of Foreign Fishing Boats) Act;

[§ 7, 59 of 1979.]

" take ", with its grammatical variations and cognate expressions, when used with reference to any fish, includes the killing, capture or destruction of such fish.

SAVINGS OF OTHER WRITTEN LAW

36. Notwithstanding the repeal of the Game Protection Ordinance, 1909, \*—

Savings for concessions, regulations, &c., under Game Protection Ordinance, 1909.

(a) any exclusive right of taking any fish in any stream or inland water heretofore conceded to any club or association under that Ordinance may continue to be exercised in like manner as if such right was granted to that club or association under section 17 of this Ordinance, and all rules made by such club or association and in force at the appointed date, shall continue in force in like manner as if they were made under this Ordinance, and may be amended, varied or rescinded by rules made by that club or association and duly approved by the Minister under the said section ;

(b) all regulations made under that Ordinance and in force at the appointed date, shall continue in force in like manner as if they were made under this Ordinance, and may be amended, varied, or rescinded by regulations made under section 33 ;

(c) every notification, establishing a close season in respect of any fish, made under that Ordinance and in force at the appointed date, shall continue in force in like manner as if it were a regulation made under this Ordinance, and may be amended, varied or rescinded by regulation.



## ***FISHERIES***

**[Cap. 240**

Application of Ordinance, **37.** (1) Nothing in this Ordinance shall apply to the taking of fish in any Strict Natural Reserve or National Park within the meaning of the Fauna and Flora Protection Ordinance,

(2) The provisions of this Ordinance shall be in addition to and not in substitution of provision of the Forest Ordinance or of any rule made thereunder relating to the taking of fish or to the manner of the taking of fish in Sri Lanka fisheries waters

CHAPTER 281

FERTILIZERS

Act No. 21 of 1961.

AN ACT TO REGULATE THE SALE OF FERTILIZERS OF THE SOIL AND TO PROVIDE AGAINST THE ADULTERATION THEREOF AND TO REPEAL THE FERTILIZERS ORDINANCE.

[Not in operation on 31st December, 1980.]\*

Short title and date of operation.

1. This Act may be cited as the Fertilizers Act, and shall come into operation on such date\* (hereinafter referred to as the "appointed date") as the Minister may appoint by Order published in the Gazette.

6. (1) Where any article specified in column I of the First Schedule to this Act is sold for use as a fertilizer of the soil, whatever may be the name under which the article is sold, the seller of such article shall give or cause to be given to the purchaser of such article, on or before delivery thereof or as soon as reasonably practicable thereafter, a statement in writing (hereafter in this Act referred to as a "statutory statement") specifying—

Statutory statement in respect of certain articles

The Chief Fertilizer Analyst.

2. The Chemist of the Department of Agriculture shall be the Chief Fertilizer Analyst for the purposes of this Act.

- (a) the name under which the article is sold, and
- (b) such particulars of the nature, substance or quality of the article, and the amount of any ingredient of the article, as are in relation to the article mentioned in column II of that Schedule:

Provided that the preceding provisions of this subsection shall not apply—

Deputy Chief Fertilizer Analysts, Fertilizer Analysts, Fertilizer Inspectors, and other staff.

3. For the purposes of this Act there may be appointed, by name or by office, the necessary number of—

- (i) to the sale of two or more such articles which are mixed at the request of the purchaser before delivery to him; or
- (ii) to the sale of any such article in any quantity not exceeding fifty-six pounds if the article sold is taken in the presence of the purchaser from a parcel marked in the prescribed manner with any registered mark or marks indicating the particulars required by the preceding provisions of this subsection to be specified in the statutory statement.

Chief Fertilizer Analyst may exercise or perform powers or duties of any Fertilizer Analyst or Fertilizer Inspector.

- (a) persons to be or to act as Deputy Chief Fertilizer Analysts,
- (b) persons to be or to act as Fertilizer Analysts,
- (c) persons to be or to act as Fertilizer Inspectors, and
- (d) other officers and servants.

Powers or duties of any Fertilizer Inspector may be exercised or performed by any Fertilizer Analyst.

4. The powers or duties of any Fertilizer Analyst or any Fertilizer Inspector may be exercised or performed by the Chief Fertilizer Analyst.

5. The powers or duties of any Fertilizer Inspector may be exercised or performed by any Fertilizer Analyst.

\* Not in operation on 31st December, 1980.

(2) The failure to give a statutory statement in accordance with the provisions of this section shall not invalidate a contract for sale.

8. (1) The purchaser of—

Right of purchaser to have article sampled and analysed.

(a) any article specified in column I of the First Schedule to this Act, or

(b) any other article sold for use as a fertilizer of the soil in respect of which a warranty, express or implied, has been given by the seller of such article,

Warranties.

7. (1) A statutory statement given by the seller of any article specified in column I of the First Schedule to this Act shall, notwithstanding any contract or notice to the contrary, have effect as a written warranty by the seller that the particulars contained in such statement are correct.

(2) Where any such article specified in column I of the First Schedule to this Act as is sold for use as a fertilizer of the soil is, in a statutory statement or other document provided or issued by or on behalf of the seller of the article, described by a name specified in column I of the Second Schedule to this Act, the sale of the article under that name shall have effect as a written warranty by the seller of the article that the article accords with the definition thereof contained in column II of that Second Schedule.

(3) Any statement as to the amount of chemical or other ingredients or as to the fineness of grinding of any such article specified in column I of the First Schedule to this Act as is sold for use as a fertilizer of the soil, which is made after the appointed date in any such document (other than a statutory statement) descriptive of the article as is provided or issued by or on behalf of the seller of the article, shall have effect as a warranty by the seller of the article that the facts stated in that document are correct.

(4) No action on any warranty referred to in the preceding provisions of this section shall lie for any mis-statement therein as to the particulars of the nature, substance or quality of the article in respect of which the warranty is given or as to the amount of any ingredient of such article where the mis-statement does not exceed the limits of variation (if any) prescribed in relation to such particulars or amounts, but where the mis-statement exceeds such limits, the rights of the purchaser of such article under the warranty shall not be affected by such limits.

may apply in writing to the Fertilizer Inspector of the area where such article is sold to such purchaser that a sample of such article be taken by such Inspector for analysis by a Fertilizer Analyst. Such application shall be so transmitted as to reach such Inspector at least three days before the delivery of such article to such purchaser, and shall be accompanied by the prescribed fee for such analysis and a copy of the statutory statement, or of the warranty, relating to such article.

(2) Where an application relating to an article specified in subsection (1) is transmitted to a Fertilizer Inspector in accordance with the provisions of that subsection, he shall take in the prescribed manner a sample of such article at the time of the delivery of such article to its purchaser at the place of sale or at the time of the despatch of such article by its seller to its purchaser.

9. (1) Every parcel of any article specified in column I of the First Schedule to this Act when prepared for sale or consignment for use as a fertilizer of the soil shall, if exposed for sale, or, if not exposed for sale, before being removed from the premises where it is so prepared, be marked in the prescribed manner with any registered mark or marks indicating the particulars required by this Act to be contained in the statutory statement relating to such article :

Marking of articles prepared for sale or consignment.

Provided that the preceding provisions of this subsection shall not apply to a parcel of two or more such articles which are mixed at the request of the purchaser before delivery to him.

(2) The proprietor of the business of selling such parcels as are referred to in subsection (1) shall keep, in such form as

may be prescribed, a register of marks specifying the particulars indicated by the several marks entered in the register.

(3) The marking of a parcel of any article specified in column I of the First Schedule to this Act with any mark or marks entered in a register kept under subsection (2) shall be treated as indicating that the particulars of such article are those entered in the register in relation to such mark or marks.

(4) On the sale of any parcel marked in the prescribed manner with any registered mark or marks, the seller shall add or cause to be added such mark or marks to the statutory statement.

(5) Where the statutory statement received by the seller on the sale to him of a parcel of any article specified in column I of the First Schedule to this Act contains any registered mark or marks, and the parcel has not been on his premises, he shall add or cause to be added such mark or marks to the statutory statement required to be given by him to a purchaser of such parcel.

(6) If any parcel required by subsection (1) to be marked as provided in that subsection is not so marked, or if any such parcel is so marked and from the analysis of a sample of the article in the parcel taken by a Fertilizer Inspector in the prescribed manner on the premises on which the parcel is exposed for sale or on any premises on which the parcel after having been so marked may happen to be before being delivered to a purchaser or carrying agent, it appears that the particulars indicated by the registered mark or marks with which the parcel is marked are false to the prejudice of the purchaser, or that such particulars do not include any particulars which are required by this Act to be specified in the statutory statement relating to the article in the parcel, the person selling or having in his possession or disposition for the purpose of sale or consigning the parcel or exposing it for sale shall be guilty of an offence unless he proves that he took all reasonable steps to prevent the commission of the offence and that he acted without intent to defraud.

Sales in small quantities.

**10.** Where any article is sold for use as a fertilizer of the soil in any quantity not

exceeding fifty-six pounds from a parcel which purports to be marked in the prescribed manner with any registered mark or marks, and from an analysis of a sample of the article in the parcel taken by a Fertilizer Inspector in the prescribed manner on the premises on which the parcel is kept it appears that the particulars indicated by such mark or marks are false to the prejudice of the purchaser, or do not include any particulars which are required by this Act to be specified in a statutory statement relating to that article, the seller of that article shall be guilty of an offence unless he proves that he took all reasonable steps to prevent the commission of the offence and that he acted without intent to defraud.

**11.** (1) A person who, without reasonable excuse, fails to comply with the provisions of subsection (1) of section 6 shall be guilty of an offence. Failure to give, and mis-statements in, statutory statements, &c.

(2) If, on the sale of any article specified in column I of the First Schedule to this Act, a statutory statement is given the particulars stated in which differ—

- (a) from the particulars indicated by any registered mark or marks with which a parcel of that article is marked in the prescribed manner, or
- (b) where that article has not been on the premises of the seller, from the particulars stated in the statutory statement received by the seller on the sale of that article to him,

the seller of that article shall be guilty of an offence unless he proves that he took all reasonable steps to prevent the commission of the offence and that he acted without intent to defraud.

(3) A person who, without reasonable excuse, fails to comply with the provisions of subsection (4) or subsection (5) of section 9 shall be guilty of an offence.

**12.** Where in pursuance of the foregoing provisions of this Act a description has been applied to any article specified in column I of the First Schedule to this Act and such description is a trade description within the Relief from liability under the Code of Intellectual Property Act in certain cases.

meaning of the Code of Intellectual Property Act, no proceedings shall be taken under that Act on the ground that the description so applied is a false description.

Preservation of registers and certain statutory statements and inspection of registers and statutory statements.

**13.** (1) It shall be the duty of any person who keeps a register under this Act, or who, in respect of an article which has been sold by him but which has never been on his premises, has received a statutory statement on the sale of that article to him, to preserve the register or statutory statement for the prescribed period, and on demand made by any Fertilizer Inspector at any time within that period to produce it for his inspection, and if such person fails so to preserve the register or statutory statement or so to produce it for such inspection, such person shall be guilty of an offence.

(2) Any person having in his possession or under his control any register kept under this Act or any statutory statement made under this Act shall on demand made by any Fertilizer Inspector produce it for his inspection, and if such person fails so to produce the register or statutory statement, he shall be guilty of an offence.

(3) Any Fertilizer Inspector may at all reasonable times enter any premises where he has reasonable cause to believe that any register required by this Act to be kept, or any statutory statement, is for the time being kept, and may take copies thereof.

Power of entry and sampling.

**14.** Any Fertilizer Inspector may at all reasonable times enter any premises in which he has reasonable cause to believe that there is any article specified in column I of the First Schedule to this Act which has been prepared for sale or consignment and may take samples in the prescribed manner of any article on such premises which he has reasonable cause to believe to be such an article as aforesaid:

Provided that a Fertilizer Inspector shall not exercise his powers under the preceding provisions of this section in respect of a mixture of two or more such articles prepared at the request of a purchaser.

Samples.

**15.** (1) Where a sample of any article has been taken by a Fertilizer Inspector in the prescribed manner, he shall—

(a) divide the sample into three parts; and

(b) place each such part in a bottle or other container which shall be so closed or secured as to preserve the original composition of the article and shall be marked and sealed in the prescribed manner; and

(c) send two of the parts to a Fertilizer Analyst together with a signed statement that the sample was taken in the prescribed manner; and

(d) deliver or send the third part to the seller or owner as may be prescribed.

(2) A Fertilizer Analyst to whom two parts of a sample are sent under subsection (1) shall analyse one of those parts and shall retain the other for the prescribed period.

(3) If the person on whose behalf the sample of an article is taken and analysed, or the owner or seller of such article, objects to the certificate of the Fertilizer Analyst who made the analysis, the person objecting thereto shall, on payment of the prescribed fee, be entitled to have submitted to the Chief Fertilizer Analyst the part of the sample retained by the aforesaid Fertilizer Analyst and to have that part analysed by the Chief Fertilizer Analyst and to receive from him a certificate of the result of his analysis.

(4) Where a sample is under this section sent for analysis to a Fertilizer Analyst or to the Chief Fertilizer Analyst, there shall also be sent to him any statutory statement, or warranty relating to the article sampled or a copy thereof, or, where such article was taken from a parcel, a copy of the particulars indicated by any registered mark or marks with which the parcel was marked in the prescribed manner.

(5) Where a sample is sent for analysis to a Fertilizer Analyst or the Chief Fertilizer Analyst, the analysis may be made by any person acting under the direction of such Fertilizer Analyst or Chief Fertilizer Analyst, but the certificate of analysis shall be signed by such Fertilizer Analyst or Chief Fertilizer Analyst, as the case may be.

(6) Where a sample of any article taken in the prescribed manner has been analysed by a Fertilizer Analyst or the Chief

Fertilizer Analyst, such Analyst shall, within twenty-one days after the receipt by such Analyst of the sample analysed, furnish to the person who submitted the sample for analysis and, where that person is not the purchaser of such article, also to such purchaser, and in every case to the owner or seller of such article, his certificate of analysis:

Provided that if such Analyst does not know the name and address of the owner or seller, such Analyst shall send the certificate intended for the owner or seller to the person who submitted the sample, who shall transmit it to the owner or seller.

(7) Where a sample of any article, which has not been taken in the prescribed manner, is analysed by a Fertilizer Analyst or the Chief Fertilizer Analyst, such Analyst shall send his certificate of analysis to the person who submitted the sample to him.

Tampering with samples.

16. If any person knowingly or fraudulently—

(a) tampers with any article so as to procure that any sample of it taken or submitted for analysis under this Act does not correctly represent the article; or

(b) tampers with any sample taken or submitted for analysis under this Act,

he shall be guilty of an offence.

Obstruction of Inspectors.

17. (1) If the owner or person entrusted for the time being with the charge and custody of any article refuses to allow a Fertilizer Inspector to take a sample of the article on any premises on which he is authorized by this Act to do so, such owner or person shall be guilty of an offence.

(2) If any person wilfully delays or obstructs a Fertilizer Inspector in the execution of his duties under this Act, such person shall be guilty of an offence.

Prohibition against disclosures.

18. If a Fertilizer Inspector discloses any information obtained by him in or in connexion with the exercise of his powers under this Act, except to a person acting in

the execution of this Act and so far as such information may be necessary for such execution, such Inspector shall be guilty of an offence.

19. Any person guilty of an offence under this Act shall be liable, on conviction after summary trial before a Magistrate, in the case of a first offence to a fine not exceeding two hundred and fifty rupees, and in the case of a second or subsequent offence to a fine not exceeding five hundred rupees.

Penalties for offences.

20. No proceedings for an offence under this Act shall be instituted except with the written sanction of the Chemist of the Department of Agriculture.

Sanction of Chemist of the Department of Agriculture required for prosecution.

21. Where an offence under this Act is committed by a body corporate, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of that body or was purporting to act in 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 such capacity and in all the circumstances.

Liability of directors and certain officers of a body corporate for offence under this Act committed by that body.

22. (1) Notwithstanding anything in any other written law, proceedings for an offence under this Act may, if the prosecutor so desires, be instituted in the Magistrate's Court having jurisdiction in the place where the person charged resides or carries on business.

General provisions as to legal proceedings.

(2) In any proceedings for an offence under this Act, it shall be no defence to allege that a sample of any article having been taken for analysis only there was no prejudice to the purchaser.

(3) Notwithstanding anything in any other written law, proceedings for an offence under this Act may, subject to the provisions of section 20, be instituted by the person aggrieved or by a Fertilizer Inspector.

Evidence of certificates of analysis.

**23.** (1) Where a sample which has been taken in the prescribed manner by a Fertilizer Inspector and has been divided into parts and parcelled, marked and sealed as hereinbefore provided in this Act, has been analysed by a Fertilizer Analyst, such Analyst's certificate shall at the hearing of any civil or criminal proceedings with respect to the article sampled be sufficient evidence of the facts therein stated, unless the defendant or the person charged requires that such Analyst be called as a witness or that the sample be further analysed by the Chief Fertilizer Analyst.

(2) In any legal proceedings a certificate by the Chief Fertilizer Analyst shall be sufficient evidence of the facts stated therein unless either party to the proceedings requires that such Analyst be called as a witness.

Regulations.

**24.** (1) The Minister may, after consultation with the advisory committee to be constituted under section 25, make regulations for prescribing anything which under this Act is required or authorized to be prescribed, and generally to give effect to the provisions of this Act; and in particular such regulations may—

- (a) amend any Schedule to this Act;
- (b) prescribe the manner in which parcels of articles required to be marked under this Act are to be marked and the nature of the marks ;
- (c) prescribe the limits of variation for the purpose of this Act;
- (d) prescribe the manner in which samples are to be taken and dealt with;
- (e) prescribe the methods of analysis to be followed for determining the percentages of particular substances.

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

Advisory committee.

**25.** For the purpose of assisting and advising him with respect to the making of

regulations under this Act, the Minister shall, after consultation with such associations or other bodies as appear to him to represent the interests concerned, appoint an advisory committee consisting of such number of members as he may deem necessary.

**26.** The Fertilizers Ordinance, No. 12 of 1901, is hereby repealed.

Repeal of Fertilizers Ordinance.

**27.** (1) In this Act, unless the context otherwise requires,—

Interpretation

" Chief Fertilizer Analyst" includes any Deputy Chief Fertilizer Analyst appointed for the purposes of this Act;

" registered mark", with reference to a parcel of any article specified in column I of the First Schedule to this Act, means a mark entered in a register kept under subsection (2) of section 9 by the proprietor of the business of selling such parcel;

" seller", with reference to any article sold, means the person who was the owner of the article at the time of its sale.

(2) Where the method of analysis for determining the amount of any substance contained in any article is prescribed under this Act, any statement in any statutory statement or document which by virtue of this Act takes effect as a warranty and any registered mark or marks on a parcel of any article or any entry in a register under this Act indicating or stating the amount of that substance shall be taken to be a statement of the amount of that substance as determined by analysis in accordance with the method so prescribed.

(3) Particulars as to the nature, substance or quality of an article in a parcel marked with any registered mark or marks shall not for the purposes of this Act be deemed to be false to the prejudice of the purchaser of that article if the mis-statement as respects any ingredient does not exceed the limits of variation (if any) prescribed under this Act in relation thereto.

[Sections 6, 7,  
9.11,12 and  
14]

FIRST SCHEDULE

FERTILIZERS

I	II
<i>Article</i>	<i>Particulars to be contained in Statutory Statement</i>
A product, not otherwise mentioned in this Schedule, obtained by mixing one or more of the articles mentioned in this Schedule with any other such article or with any other substance or substances	Amount, if any, of nitrogen, potash, phosphoric acid soluble in water, and phosphoric acid insoluble in water respectively.
Basic slag	Amount of phosphoric acid soluble in citric acid.
Bone meal, or other product not otherwise mentioned in this Schedule, obtained by grinding or otherwise treating bone used for fertilizing purposes	Amount of nitrogen and phosphoric acid respectively.
Calcium cyanamide	Amount of nitrogen.
Coral limestone, ground	Neutralising value. Amount of lime. Amount that will pass through a prescribed, sieve.
Concentrated superphosphate	Amount of phosphoric acid soluble in water.
Dicalcium phosphate	Amount of phosphoric acid.
Dissolved or vitriolized bone	Amount of nitrogen, phosphoric acid soluble in water, and phosphoric acid insoluble in water respectively.
Dolomite, ground	Amount of magnesia. Neutralizing value. Amount that will pass through a prescribed sieve,
Dried blood for fertilizing purposes	Amount of nitrogen.
Fish residues or other products obtained by drying and grinding or otherwise dealing fish or fish waste, used for fertilizing purposes	Amount of nitrogen and phosphoric acid respectively.
Guano, including Peruvian and other raw guanos, but excluding poultry manure	Amount of nitrogen, phosphoric acid and potash respectively.
Hoofs	Amount of nitrogen,
Hoofs and horns	Amount of nitrogen,
Horns	Amount of nitrogen.
Magnesium silico phosphate	Amount of phosphoric acid-
Magnesium sulphate	Amount of Magnesia,
Meat and bone residues, or any product not specifically mentioned elsewhere in this Schedule, obtained by drying and grinding or otherwise treating bone, flesh fibre (including whale meat) and other slaughterhouse residues, used for fertilizing purposes	Amount of nitrogen and phosphoric acid respectively.
Nitrate of lime	Amount of nitrogen.
Nitrate of potash	Amount of nitrogen and potash respectively.
Nitrate of soda	Amount of nitrogen.



1

*Article*

11

*Particulars to be contained in Statutory Statement*

Oil seed fertilizers, including castor cake, gingelly cake. ground nut cake, coconut cake, or any residue obtained by the removal of oil from seeds	Amount of nitrogen.
Phosphate rock, ground or otherwise .. ..	Amount of phosphoric acid. Amount that will pass through a prescribed sieve.
Potassic nitrate of soda .. ..	Amount of nitrogen and potash respectively.
Potassium salts used as fertilizers including kainit. sylvinit, potash manure salt, muriate of potash, sulphate of potash and sulphate of potash-magnesia	Amount of potash.
Precipitated bone phosphate; dicalcium bone phosphate	Amount of phosphoric acid.
Slaked magnesium lime .. ..	Neutralizing value and amount of magnesium.
Sulphate of ammonia .. ..	Amount of nitrogen.
Slaked coral lime .. ..	Neutralizing value and amount of lime.
Superphosphate .. ..	Amount of phosphoric acid soluble in water.
Triple superphosphate .. ..	Amount of phosphoric acid soluble in water.
Urea .. ..	Amount of nitrogen.

The provisions of this Schedule shall apply to any article described therein under whatever name it may be sold or offered for sale and notwithstanding that it contains a substance not mentioned in this Schedule.

Amounts are to be stated as percentages of the weight of the article. Nitrogen is to be stated in terms of nitrogen. Phosphoric acid, soluble phosphoric acid and insoluble phosphoric acid are to be stated in terms of phosphoric anhydride (P<sup>2</sup>O<sub>5</sub>). Potash is to be stated in terms of potassium oxide (K<sub>2</sub>O). Magnesia is to be stated in terms of Magnesium Oxide (MgO). Lime is to be stated in terms of Calcium Oxide (CaO).

SECOND SCHEDULE

[Section 7.]

DEFINITIONS IMPLIED ON THE SALE, UNDER CERTAIN NAMES, OF ARTICLES SPECIFIED IN COLUMN I  
OF THE FIRST SCHEDULE

<i>Name under which article is sold</i>	<i>Implied definition</i>
Ammonium nitrate	Ammonium nitrate for fertilizing purposes.
Basic slag	A by-product, containing phosphorus obtained in the manufacture of steel and to which no addition has been made at the time of leaving or after it has left the furnace.
Bonemeal	Commercially pure bone, raw or degreased, which has been ground or crushed, and which contains not less than 3 per cent nitrogen and not less than 22 per cent phosphoric acid.
Bone meal. Grade II	Commercially pure bone, raw or degreased, which has been ground or crushed, and which contains less than 3 per cent nitrogen or less than 22 per cent phosphoric acid.
Calcium cyanamide	Commercial calcium cyanamide.
Castor cake	The residue which is obtained by the removal of oil from castor cake seed.

<i>Name under which article is sold</i>	<i>Implied definition</i>
Coconut cake	The residue which is obtained by the removal of oil from copra.
Compound fertilizer, mixed fertilizer, and fertilizer mixture	A product, not otherwise mentioned in this Schedule, containing two or three of the elements nitrogen, phosphorus and potassium, and obtained by mixing one or more of the articles mentioned in the First Schedule with any other such article or with any other substance or substances.
Concentrated superphosphate	Phosphate rock which has been treated with sulphuric acid and phosphoric acid.
Coral limestone, ground	Coral limestone reduced in size.
Dicalcium phosphate	Dicalcium phosphate for fertilizing purposes.
Dissolved or vitriolized bone	Commercially pure bone which has been treated with sulphuric acid.
Dolomite, ground	Dolomite reduced in size.
Dried blood	Blood which has been dried, to which no other matter has been added.
Fish guano, and fish manure	A product obtained by drying and grinding or otherwise treating fish or fish waste, to which no other matter has been added.
Gingelly cake	The residue which is obtained by the removal of oil from gingelly seed.
Groundnut cake	The residue which is obtained by removal of oil from shelled groundnut.
Hoofs	The product obtained by crushing or grinding hoofs.
Hoofs and horns	A mixture of hoof and horn crushed or ground.
Horns	The product obtained by crushing or grinding horn.
Magnesium Silico phosphate	A product obtained by the fusion of magnesium silicate with rock phosphate.
Magnesium sulphate	Magnesium sulphate for fertilizing purposes.
Meat and bone meal, meat meal, carcase meal, meat and bone tankage	The product or drying and grinding or otherwise treating bone, flesh fibre (including whale meat) and other slaughterhouse residues.
Muriate of potash	Potassium chloride for fertilizing purposes.
Nitrate of potash	Potassium nitrate for fertilizing purposes.
Nitrate of soda	Sodium nitrate for fertilizing purposes.
Phosphate rock, ground or otherwise	The substance obtained from mineral calcium phosphate deposits, to which no other matter has been added.
Potassic nitrate of soda	A mixture of sodium nitrate and potassium nitrate for fertilizing purposes.

<i>Name under which article is sold</i>	<i>Implied definition</i>
Precipitated bone phosphate, and dicalcium bone phosphate	An insoluble calcium phosphate prepared by treating commercially pure bone with acid and precipitation of phosphate from the solution.
Raw guano	The excrement and remains of any birds except poultry, containing both nitrogen and phosphorus prepared for use <i>b) winning</i> uliere neies;iliy, but to which no addition has been made.
Shoddy manure; wool waste; wool-combines; wool manure; flock dust	Waste of wool, or of wool mixed with fibrous materials such as are associated with wool in the textile industries including cotton and similar non-wool materials, to which no other matter has been added.
Slaked coral lime	The product obtained by slaking burnt coral limestone.
Steamed bone flour; steamed bone meal	Commercially pure bone from which nitrogen has been removed by steam.
Sulphate of ammonia	Ammonium sulphate for fertilizing purposes.
Slaked magnesium lime	The product obtained by slaking burnt dolomite.
Sulphate of potash	Potassium sulphate for fertilizing purposes.
Superphosphate	Phosphate rock which has been treated with sulphuric acid.
Triple superphosphate	Phosphate rock which has been treated with phosphoric acid-
Urea	Urea for fertilizing purposes,

The provisions of this Schedule shall apply to any article described therein under whatever name it may be sold or offered for sale and notwithstanding that it contains a substance not mentioned in this Schedule.

CHAPTER 544

FOOD

Act No. 26 of 1980.

AN ACT TO REGULATE AND CONTROL THE MANUFACTURE, IMPORTATION, SALE AND DISTRIBUTION OF FOOD, TO ESTABLISH A FOOD ADVISORY COMMITTEE, TO REPEAL THE FOOD AND DRUGS ACT OF 1949, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st February, 1981.]\*

Short title.

1. This Act may be cited as the Food Act.

(3) No person shall import, sell or distribute any food manufactured, prepared, preserved, packaged or stored for sale under insanitary conditions.

PART I

PROHIBITION IN RESPECT OF FOOD

Prohibition on manufacture, importation, sale and distribution of food.

2. (1) No person shall manufacture, import, sell or distribute any food—

- (a) that has upon it any natural or added deleterious substance which renders it injurious to health ;
- (b) that is unfit for human consumption;
- (c) that consists in whole or in part of any unclean, putrid, repugnant, decayed, decomposed or diseased animal substance or decayed vegetable substance or is insect infested ;
- (d) that is adulterated ;
- (e) that has in or upon it any added substance in contravention of the provisions of this Act or any regulation made thereunder; or
- (f) in contravention of the provisions of this Act or any regulation made thereunder.

3. (1) No person shall label, package, treat, process, sell or advertise any food in a manner that is false, misleading, deceptive or likely to create an erroneous impression, regarding its character, value, quality, composition, merit or safety.

Labelling packaging, advertising, &c.

(2) Any food that is not labelled or packaged as required by the regulations made under this Act or is labelled or packaged contrary to such regulations shall be deemed to be labelled or packaged contrary to subsection (1).

4. Where a standard is prescribed for any food, no person shall label, package, sell or advertise any food which does not conform to that standard in such a manner as is likely to be mistaken for the food for which the standard has been prescribed.

Where standard is prescribed.

5. No person shall offer for sale, expose for sale or sell for use as animal food or for other purposes any food which has been spoilt or rendered unfit for human consumption except with the permission of, and in accordance with the directions issued by the Chief Food Authority or such other person authorized by him in writing in that behalf.

Sale for purposes other than human consumption of food rendered unfit for human consumption.

(2) No person shall manufacture, prepare, preserve, package or store for sale any food under insanitary conditions.

6. (1) No manufacturer or a distributor of or a commission agent or a dealer in any food shall sell such food to any vendor

Warranty.

• Gazette No. 124 of 16th January, 1981.

unless he also gives that vendor a warranty in the prescribed form in respect of the nature, substance and quality of that food.

(2) A bill, cash memorandum or invoice, in respect of the sale of any food given by a manufacturer or distributor of or a commission agent or a dealer in any such food to the vendor of that food, shall be deemed to be a warranty under the preceding provisions of this section in respect of that food, if such bill, cash memorandum or invoice contains a description of the nature, substance and quality of that food.

(3) No manufacturer or distributor of, or a commission agent or dealer in, any food shall under subsection (1) give a warranty which is false.

Licensing.

7. (1) No person shall manufacture, prepare, preserve, package, store or sell any food in any premises unless such premises has been licensed by the relevant Food Authority who shall be the licensing authority.

(2) No person shall manufacture, prepare, store or sell or distribute any food unless he is the holder of a licence authorizing him to manufacture, prepare, store, sell or distribute any food otherwise than in accordance with the terms and conditions of such licence.

## PART II

### ADMINISTRATION

Food Advisory Committee.

8. (1) There shall be a Committee which shall be called the Food Advisory Committee consisting of—

- (a) the Director of Health Services who shall be the Chairman of the Committee;
- (b) the Assistant Director of Health Services in charge of Food Control Administration who shall be the Secretary of the Committee;
- (c) the Government Analyst or any officer nominated by him;

## FOOD

- (d) the city Analyst of the Colombo Municipality;
- (e) the Principal Collector of Customs or any officer nominated by him;
- (f) the Chief Medical Officer of Health of the Colombo Municipality;
- (g) (i) a representative of the Ministry charged with the subject of Food nominated by the Minister in charge of that subject, or a representative of any department under that Ministry nominated by that Minister;
- (ii) a representative of the Ministry charged with the subject of Trade, nominated by the Minister in charge of that subject, or a representative of any department under that Ministry nominated by that Minister;
- (iii) a representative of the Ministry charged with the subject of Local Government, nominated by the Minister in charge of that subject, or a representative of any department under that Ministry nominated by that Minister;
- (h) a representative of the Bureau of Ceylon Standards nominated by the Minister in charge of the subject of Industries;
- (i) a nutritionist from the Medical Research Institute nominated by the Minister;
- (j) a food technologist nominated by the Minister;
- (k) two experts in food science nominated by the Minister;
- (l) two members nominated by the Minister one of whom shall represent commercial interests and the other industrial interests;
- (m) two members nominated by the Minister to represent the interests of the consumer; and
- (n) the Chief Food and Drug Inspector.

(2) Every member of the Committee nominated by the Minister under paragraphs (j), (k), (l) and (m) of subsection (1) shall, unless he earlier vacates office by resignation, death or removal, hold office for a period of three years from the date of his nomination and shall be eligible for re-nomination.

(3) Every member of the Committee other than the members referred to in subsection (2) shall cease to be a member of the Committee on his ceasing to hold office which qualified him to be, or to be nominated as, a member of the Committee.

(4) The Committee may discharge its functions notwithstanding any vacancy among its members.

(5) Seven members of the Committee shall form a quorum for any meeting of the Committee.

(6) Subject to the provisions of this Act, the Committee may regulate its own procedure in regard to its meetings and the transaction of business at the meetings.

Duties of the Food Advisory Committee,

**9.** (1) It shall be the duty of the Food Advisory Committee to advise the Minister on matters arising out of the administration of this Act and to carry out other functions assigned to it under this Act.

(2) The Committee may appoint such sub-committees, as it deems fit, to exercise such powers, perform such duties or discharge such functions as may, subject to such conditions, if any, as the Committee may impose, be delegated to them by the Committee, and may appoint to these sub-committees persons who are not members of the Committee.

Food Authority.

**10.** (1) Save as otherwise provided in subsection (4), for every administrative area of a local authority there shall be a Food Authority to carry into execution and enforce within the administrative area of the respective local authority the provisions of this Act and the regulations made thereunder.

(2) The Food Authority under subsection (1) for the administrative area of—

(a) a Municipality shall be the Municipal Council constituted for that area;

(b) any other local authority shall be—

(i) the local authority constituted for that area, where that local authority is appointed by the Minister as the Food Authority for that area on the recommendation of the Minister in charge of the subject of Local Government; or

(ii) the Medical Officer of Health for that area where the local authority constituted for that area is not appointed as the Food Authority under subparagraph (i).

(3) Every Superintendent of Health Services shall, within the area for which he is appointed, supervise and co-ordinate the work of the Food Authorities under subsection (1) in that area.

(4) For the administrative area of every local authority—

(a) the Excise Commissioner shall be a Food Authority in relation to food which is excisable within the meaning of the Excise Ordinance; and

(b) the Principal Collector of Customs shall be a Food Authority in relation to food the importation of which is prohibited under this Act:

Provided that the Principal Collector may delegate to any officer nominated by the Director of Health Services the powers vested in the Principal Collector as a Food Authority under this Act.

**11.** (1) The Director of Health Services shall be the Chief Food Authority for the purposes of this Act. Chief Food Authority.

(2) The Chief Food Authority shall supervise, guide and co-ordinate the work of all Food Authorities under section 10.

(3) The Chief Food Authority may give such directions as he may deem necessary to any Food Authority regarding the carrying

into execution, and the enforcement of all or any of the provisions of this Act or regulations made thereunder, and every Food Authority to whom directions are given shall comply with such directions.

(4) The Chief Food Authority may delegate all or any of his powers under this Act to any subordinate officer by name or office with the approval of the Minister.

Default of local authority.

**12.** Where on a report of the Chief Food Authority that a local authority, as the Food Authority for the administrative area of that local authority, has failed to carry into execution, enforce or comply with any provision of this Act or any regulations made thereunder or any direction given to it by the Chief Food Authority, the Minister, after giving that local authority an opportunity to show cause against it, if satisfied that the local authority has failed and that the failure affects the general interest of the public, may, with the concurrence of the Minister in charge of the subject of Local Government, by Order published in the Gazette, empower the Chief Food Authority to carry into execution or enforce or comply with that provision or direction.

Authorized officer.

**13.** (1) The Minister may approve any Medical Officer of Health, Food and Drugs Inspector, Food Inspector, Public Health Inspector and, in relation to examination and seizure of meat, any Veterinary Surgeon to be an Authorized Officer of a Food Authority.

(2) Where the Food Authority is the Excise Commissioner or the Principal Collector of Customs, any person authorized in writing by the Excise Commissioner or the Principal Collector, as the case may be, shall be an Authorized Officer of that Food Authority.

(3) Every Authorized Officer shall exercise the powers of a police officer in terms of the Code of Criminal Procedure Act for the purpose of discharging his functions under this Act.

Powers of Authorized Officer.

**14.** (1) An Authorized Officer may for the performance of his duties and the exercise of his powers—

(a) at any reasonable time enter any place where he believes any article is

manufactured, prepared, preserved, packaged or stored and examine any such article and take samples thereof and also examine anything that he believes is used for the manufacture, preparation, preservation, packaging or storing of that article;

(b) for the purpose of search, stop or detain any vehicle in which he believes that any article is being conveyed, search that vehicle and examine such article and take samples of that article ;

(c) open and examine any receptacle or package that he believes to contain any article;

(d) Where the authorized officer is a Medical Officer of Health or a person authorized by the Excise Commissioner or the Principal Collector of Customs under section 13 (2), examine any books, documents or other records found in any place mentioned in paragraph (a) that he believes to contain any information relevant to the carrying into execution or the enforcement of this Act with respect to any article and make copies thereof or take extracts therefrom; and

(e) seize and detain for such time as may be necessary any article by means of or in relation to which he believes any provision of this Act or regulation made thereunder has been contravened.

(2) For the purposes of this section and section 15 " article " means—

(a) any food including the whole or any part of any dead animal, bird or fish intended to be used or capable of being used for human consumption;

(b) anything used or capable of being used for the manufacture, preparation, preservation, packaging or storing of food ; and

(c) any labelling or advertising material.

(3) An Authorized Officer acting under this section shall, if so required, produce his authority.

(4) The owner or person in charge of a place entered by an Authorized Officer in pursuance of subsection (1) and every person found therein shall give the Authorized Officer all reasonable assistance in his power and furnish him with such information and such samples as he may require.

(5) No person shall obstruct any Authorized Officer acting in the exercise of his powers under this Act or regulations made thereunder.

(6) If any Authorized Officer applies to obtain samples of any food exposed for sale and the person exposing the food refuses to sell to the Authorized Officer such quantity thereof as he may require or refuses to allow that officer to take the quantity which he is empowered to take as samples, the person so refusing shall be deemed for the purposes of subsection (5) to have obstructed an Authorized Officer.

(7) No person shall knowingly make any false or misleading statements either orally or in writing to any Authorized Officer, engaged in the exercise of his powers under this Act or any regulations made thereunder.

(8) Every vendor of food shall if so required by an Authorized Officer, disclose to the Authorized Officer the name, address and such other particulars as may be required of the person from whom that vendor purchased that food.

(9) No person shall remove, alter, tamper or otherwise interfere in any manner with any food seized under this Act by an Authorized Officer without the authority of that Authorized Officer.

(10) Any food seized under this Act may, at the option of an Authorized Officer, be kept or stored in the building or place where it was seized or may at his discretion be removed to any other place.

(11) An Authorized Officer shall forthwith inform the relevant Food

Authority of any seizure made under this Act.

**15.** (1) Where an article in respect of which an offence has been committed is seized under this Act by an Authorized Officer, such article may be destroyed or otherwise disposed of as the Authority may direct where the Authority is satisfied that there has been a contravention of any of the provisions of this Act or any regulations made thereunder and where the owner of such article or the person in possession of such article at the time of seizure consents in writing to the destruction of such article.

Procedure in respect of articles seized.

(2) Where the owner or person in possession of such article does not consent in writing to the destruction of such article, the Authority—

(a) shall release such article if he is satisfied that the provisions of this Act or any regulations made thereunder in respect of such article have not been contravened ; or

(b) shall, where he is satisfied that there has been a contravention of any of the provisions of this Act or regulations made thereunder, forthwith, with notice to such owner or person in possession of the article, inform the Magistrate's Court having jurisdiction over the area in which the offence was committed of the seizure of the article in respect of which the offence was committed.

(3) On information furnished to the court under subsection (2) (b) such court shall—

(a) if, after trial, it finds the owner or person in possession of the article guilty of contravening any of the provisions of this Act or regulations made thereunder, order that such article be forfeited to the Authority to be disposed of as the court may direct:

Provided, however, that where the offender is not known or cannot be found such article shall be forfeited to the Authority without the institution of proceedings in respect of such contravention ; or



(b) if, after trial, it finds the owner or person in possession of the article not guilty of contravening any of the provisions of this Act or regulations made thereunder, order that such article be released to such owner or person in possession.

Analysis.

**16.** (1) An Authorized Officer shall submit any food seized by him or any portion thereof or any sample taken by him, unless destroyed under section 15 (1) to the Approved Analyst for analysis or examination.

(2) Where the Approved Analyst has made the analysis or examination of any food submitted to him under subsection (1) he shall issue a certificate or report to the relevant Food Authority setting out in that certificate or report the results of his examination or analysis.

(3) For the purpose of this section the " Approved Analyst " includes an Additional Approved Analyst.

Approved Analyst.

**17.** (1) For the purposes of this Act and any regulations made thereunder the Government Analyst shall be the Approved Analyst.

(2) Notwithstanding the provisions of subsection (1) the Minister may approve an Additional Approved Analyst for any administrative area of a local authority. Notification of the approval shall be published in the Gazette.

(3) No person shall be approved as an Additional Approved Analyst—

- (a) if he does not possess the prescribed qualifications ; or
- (b) if that person is engaged directly or indirectly in any trade or business connected with the sale of food.

**PART III**

**LEGAL PROCEEDINGS**

Offences.

**18.** (1) Every person who contravenes any of the provisions of this Act or any regulations made thereunder or fails to

comply with any direction given under this Act shall be guilty of an offence and shall be liable on conviction—

(a) where the nature of the offence involves injury to the health of the public, to imprisonment for a term not less than six months and not exceeding three years, and also to a fine not less than one thousand rupees and not exceeding five thousand rupees;

(b) where the offence is the contravention of subsection (5) or subsection (9) of section 14, to imprisonment for a term not less than three months and not exceeding one year and also to a fine not less than five hundred rupees and not exceeding one thousand rupees; and

(c) for any other offence—

(i) for the first offence to a fine not less than two hundred and fifty rupees and not exceeding five hundred rupees or to imprisonment for a term not exceeding six months or to both such fine and imprisonment;

(ii) for a second or subsequent offence to imprisonment for a term not less than three months and not exceeding one year and also to a fine not less than five hundred rupees and not exceeding one thousand rupees.

(2) Where a person convicted for an offence under this Act or any regulations made thereunder is convicted for a second or subsequent offence of a like or similar nature under this Act or any regulations made thereunder, the court convicting him for the second or subsequent offence may—

(a) cause the name and the address of the person convicted and the offence and the punishment imposed for that offence to be published in such newspaper or in such other manner as the court may direct and recover

the cost of publication from the person convicted as if it were a fine imposed on him;

(b) cancel the licence (if any) issued to the person convicted for the manufacture, importation, preparation, storage, sale and distribution of food under this Act or any other law and inform the relevant licensing authority accordingly.

19. Every person who commits an offence under this Act or any regulation made thereunder may be arrested without a warrant and every offence under this Act or any regulation thereunder shall be triable by a Magistrate's Court.

20. (1) A prosecution for an offence under this Act or any regulations made thereunder shall not be instituted—

(a) except by an Authorized Officer; and

(b) after the expiration of a period of three months from the date of detection of that offence.

(2) Where at any time during the trial of any offence under this Act or any regulations made thereunder, the court is satisfied on the evidence adduced before it, that any person other than the person charged with the offence was knowingly concerned in the commission of the offence, the court may notwithstanding subsection (1) (b), withdraw the charge against the person charged with the offence and proceed against that other person as though a prosecution has been instituted against that person.

21. (1) Where a person (hereinafter referred to as "the accused") is charged with an offence under this Act, he shall, upon complaint duly made by him in accordance with the provisions of section 136 of the Code of Criminal Procedure Act and on giving to the prosecution not less than three days notice of his intention, be entitled to have any other person whom he charges as the actual offender brought before the court, and, if, after the

commission of the offence has been proved, the accused proves to the satisfaction of the court that the commission of the offence was due to the act or default of such other person, such other person may be convicted of the offence, and, if the accused further proves that he has used all due diligence to enforce the provisions of this Act, he shall be acquitted of the offence.

(2) Where an accused seeks to avail himself of the provisions of subsection (1)—

(a) the prosecution, as well as the person whom the accused charges with being the actual offender, shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of his pleas, and to call evidence in rebuttal; and

(b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(3) Where it appears to the relevant Food Authority that an offence has been committed under this Act in respect of which proceedings might be taken under this Act against some person and such Authority is reasonably satisfied that the offence complained of was due to an act or default of some other person and that the first-mentioned person could establish a defence under subsection (1) of this section, such Authority may cause proceedings to be taken against that other person without first causing proceedings to be taken against the first-mentioned person.

In any such proceedings the accused may be charged with and, on proof that the offence was due to his act or default, be convicted of the offence with which the first-mentioned person might have been charged.

22. (1) In a prosecution for an offence under this Act or any regulations made thereunder it shall be a defence for the accused—

(a) that he purchased the food from another person, who furnished him with a written warranty under

Defences.

Person committing offence liable to be arrested without a warrant and to be tried by a Magistrate's Court.

Institution of proceedings.

Where the accused proves that some other person is guilty of the offence.

section 6 and that he sold such food in the same condition that it was at the time he purchased it;

- (b) that he could not have with reasonable diligence ascertained that the sale of the food would be in contravention of the Act or any regulations made thereunder; or
- (c) in relation to an offence for the publication of an advertisement, that he received the advertisement for publication in the ordinary course of business and had no reason to believe that an offence would be committed.

(2) In a prosecution for the offence of sale of food which is adulterated or contrary to the provisions of this Act or any regulations made thereunder, it shall not be a defence for the accused that he did not know that such food was adulterated or that the sale was contrary to the provisions of this Act or any regulations made thereunder or that the purchaser purchased such food for analysis and was not prejudiced by the sale.

**23.** (1) In the absence of evidence to the contrary a document purporting to be a report or a certificate signed by the Approved Analyst or an Additional Approved Analyst upon any matter submitted to him for examination or analysis shall be sufficient evidence of the facts stated therein.

(2) Where a party against whom the report or the certificate referred to in subsection (1) is produced requests that the Approved Analyst or an Additional Approved Analyst, as the case may be, summoned as a witness, the court shall summon him on that party paying to the court the expenses of summoning him, and shall examine him as a witness.

(3) The report or the certificate referred to in subsection (1) shall not be received in evidence unless the party intending to produce it has given the party against whom it is intended to be produced a copy of the report or certificate and reasonable notice of his intention to produce it.

**24.** (1) Where a sample obtained by an Authorized Officer is required to be divided by him into parts, one of which shall be retained by him, the part retained by him shall be produced in court at the time of the institution of the prosecution in relation to that sample.

Authorized Officer to produce before court the part of the sample retained by him.

(2) The Magistrate may of his own motion and shall at the request of any party to the prosecution forward for analysis or examination the part of the sample produced in court under subsection (1) to the Approved Analyst or an Additional Approved Analyst other than an analyst who has analysed or examined any other part of that sample.

(3) The analyst to whom the part of the sample is forwarded under subsection (2) shall send his report or certificate to the court within twenty-eight days of the receipt by him of that part of the sample.

(4) The expenses of analysis or examination shall be paid by such party as the court may direct.

**25.** A copy made or extract taken from any book, document or other record by an Authorized Officer under section 14 (1) (d) shall, if certified to be a true copy or extract by the Authorized Officer, be admissible in evidence against the person keeping or maintaining that book, document or record or causing that book, document or record to be kept or maintained, and shall be *prima facie* evidence of the contents of that book, document or record-

Copy or extract of document taken by an Authorized Officer.

**26.** (1) For the purposes of this Act and any regulation made thereunder—

Presumptions.

(a) any food commonly used for human consumption shall, if sold or offered, exposed or kept for sale, be presumed until the contrary is proved, to be intended for sale for human consumption;

(b) any food commonly used for human consumption which is found on premises used for the manufacture, preservation, packaging, preparation, storage or sale of any food shall be presumed, until the

Report of Approved Analyst or Additional Approved Analyst.

contrary is proved, to be intended for the preparation of, or admixture with, food meant for sale for human consumption; and

(c) any substance capable of being used in the composition or preparation of food which is found on premises used for preparation of food shall be presumed until the contrary is proved, to be intended for use in the composition or preparation of food for human consumption.

(2) Where in a prosecution for the offence of manufacture of food which is adulterated, it is established—

(a) that the food was adulterated with the addition of any other substance; and

(b) that the accused had in his possession or in his premises that other substance,

it shall be presumed until the contrary is proved that the food was adulterated by the accused by the addition of that other substance.

(3) Where a package containing any food has on or upon it the name or address purporting to be the name or address of the person by whom it was manufactured or packaged, it shall be presumed until the contrary is proved that such food was manufactured or packaged, as the case may be, by the person whose name or address appears in or upon the package.

Offences committed by a body of persons.

**27.** Where an offence under this Act or any regulations made thereunder is committed by a body of persons then—

(a) if that body of persons is a body corporate, every person who at the time of commission of the offence was a director, general manager, secretary or other similar officer of that body; or

(b) if that body is not a body corporate every person who at the time of 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 consent or concurrence and 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 his functions.

**PART IV**

**GENERAL**

**28.** No suit, prosecution or other legal proceeding shall be instituted against any person for any act which in good faith is done or purported to be done by him under this Act or any regulations made thereunder,

Protection for, action taken in good faith.

**29.** All fines paid or recovered in respect of an offence under this Act or any regulations made thereunder in a prosecution instituted by an Authorized Officer or a Food Authority which is a local authority shall be credited to the fund of that local authority.

Certain fines to be paid into the funds of local authorities.

**30.** Every medical practitioner carrying on his profession within the administrative area of any local authority shall report all cases of food poisoning in that area within his knowledge to the Superintendent of Health Services or to the Medical Officer of Health of that area.

Notification of food poisoning.

**31.** (1) The provisions of this Act and any regulations made thereunder relating to food which are excisable articles within the meaning of the Excise Ordinance shall be in addition to and not in substitution for the provisions of that Ordinance.

Application of other written law to food.

(2) The provisions of the Customs Ordinance shall apply for the purposes of the enforcement, and prevention and punishment of contraventions or attempted contraventions, of the provisions of this Act and any regulations made thereunder relating to the importation of any food.

(3) For the purposes of the application of the Customs Ordinance to any food the importation of which is prohibited under this Act, such food shall be deemed to be goods the importation of which is prohibited under that Ordinance.

(4) In the event of any conflict or inconsistency between the regulations made under this Act and by-laws made by any local authority under any written law, the regulations made under this Act shall prevail.

Regulations.

**32.** (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 the Minister may, after consultation with the Food Advisory Committee, make regulations in respect of all or any of the following matters :—

- (a) declaring that any food or class of food is adulterated if any prescribed substance or class of substance is present or has been added to or extracted or omitted from that food;
- (b) the labelling, packaging, offering, exposing and advertising for sale of food;
- (c) the size, dimensions, fill and other specifications of packages of food ;
- (d) sale or conditions of sale of any food ;
- (e) the use of any substance as an ingredient in any food to prevent the consumer or purchaser from being deceived or misled as to its quantity, character, value, composition or safety or to prevent injury to the health of the consumer or purchaser;
- (f) the standards of composition, purity, quality or other property of food ;
- (g) the importation of food in order to ensure compliance with the Act and any regulations made thereunder;
- (h) the method of preparation, manufacture, preservation, packaging, storing and testing of any food in the interest of, or for the prevention of injury to, the health of the consumer or purchaser;

- (i) (i) the persons to whom, the circumstances in which, and the terms and conditions subject to which, licences under this Act may be granted or refused ;
- (ii) the manner and mode in which applications for licences under this Act may be made and dealt with; and
- (iii) the fee payable for the issue of a licence;
- (j) requiring persons who manufacture or sell any food to furnish such information and maintain such books and records as the Minister considers necessary for the proper enforcement and administration of this Act and the regulations made thereunder;
- (k) the powers and duties of Authorized Officers, the Approved Analyst and Additional Approved Analysts and taking of samples and the seizure, detention or forfeiture and disposal of articles within the meaning of sections 14 and 15;
- (l) the forms to be used for the purposes of this Act and any regulations made thereunder;
- (m) the analysis or examination of any food, procedure for taking samples of such food and tariff of fees to be paid for the analysis or examination of such food ; and
- (n) prohibitions and restrictions relating to the sale and transport for sale of any adulterated food.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of 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.

(4) 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) The date on which any regulation shall be deemed to be so rescinded shall be published in the Gazette.

Interpretation.

**33.** In this Act unless the context otherwise requires—

"adulterated" means the addition of a substance as an ingredient in the preparation of food or subtraction of any constituent from such food or subjection of such food to any other process or any other treatment so as to—

(a) render the food injurious to health, or

(b) affect its character, value, composition, merit or safety;

"advertisement" includes any representation by any means whatsoever for the purpose of promoting directly or indirectly the sale or disposal of any food;

"food" means any article manufactured, sold or represented for use as food or drink for human beings and includes any article which ordinarily enters into or is used in the composition or preparation of food;

"Government Analyst" means the person for the time being holding the office of Government Analyst and except for the purposes of section 8 includes any person for the time being holding the office of Additional, Deputy, Senior Assistant, or Assistant Government Analyst;

"insanitary conditions" means such conditions or circumstances as may contaminate food with dust, dirt or filth or render food injurious to health,

"label" includes a tag, brand, mark, pictorial or other description, either written, printed, stenciled, marked, embossed or impressed on or attached to a container of food ;

"labelling" includes a label and any written, printed or graphic matter relating to or accompanying any food;

"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 to or similar to the powers, duties and functions exercised, performed and discharged by any such Council;

"manufacture" means preparing any food for sale and includes any process or part of a process for making, altering, finishing, packing, labelling or otherwise treating of food except packaging of food in the ordinary course of retail sale;

"medical practitioner" has the same meaning as in the Medical Ordinance;

"package" includes anything in which any food is wholly or partly contained, placed or packed;

"premises" includes any shop, stall, or place where any food is sold or manufactured or stored for sale ;

"relevant Food Authority" means a Food Authority appointed under section 10;

"sell" means to sell for cash or on credit or by way of exchange and whether by wholesale or retail and "sale" shall have a corresponding meaning; and

"Veterinary Surgeon" means a person registered as a Veterinary Surgeon or a Veterinary Practitioner under the Veterinary Surgeons' and Practitioners' Act.

**Cap. 544]**

***FOOD***

Repeals and savings.

**34,** (1) The Food and Drugs Act of 1949 is hereby repealed,

(2) Notwithstanding the repeal of the Food and Drugs Act, the regulations made under that Act relating to the prevention of adulteration of food and in force

immediately before the coming into operation of this Act shall, except where and so far as they are not inconsistent with the provisions of this Act, continue in force until altered, amended or rescinded by regulations made under this Act.

**CHAPTER 567**

**FAUNA AND FLORA PROTECTION**

*Ordinances* AN ORDINANCE TO PROVIDE FOR THE PROTECTION OF THE FAUNA AND FLORA OF  
 Nos. 2 of 1937. SRI LANKA.  
 31 of 1942.  
 12 of 1944,  
 12 of 1945.  
*Acts*  
 Nos. 38 of 1949.  
 44 of 1964.  
 1 of 1970.

[1st March. 1938.]

Short title. **1.** This Ordinance may be cited as the Fauna and Flora Protection Ordinance.

**PART I**

**NATIONAL RESERVES AND SANCTUARIES**

Constitution of National Reserves. Strict Natural Reserves. National Parks. Nature Reserves. Jungle Corridors. Intermediate Zones, and Sanctuaries. [§ 2, 44 of 1964.]

**2.** (1) The Minister may by Order published in the Gazette declare that any specified area of State land shall for the purposes of this Ordinance be a National Reserve and may by that Order or by any Order subsequently published in the Gazette declare that the whole or any specified part of any such National Reserve shall be—

- (a) a Strict Natural Reserve; or
- (b) a National Park ; or
- (c) a Nature Reserve ; or
- (d) a Jungle Corridor; or
- (e) an Intermediate Zone.

(2) The Minister may by Order published in the Gazette declare that any specified area of land within Sri Lanka (other than land declared to be a National Reserve) shall be a Sanctuary for the purposes of this Ordinance.

(3) An area declared to be a Sanctuary may include both State land and land other than State land.

(4) The Minister may by Order published in the Gazette declare that from a specified date—

- (a) the limits of any Strict Natural Reserve, National Park, Nature Reserve, Jungle Corridor or Intermediate Zone shall be altered or varied ;

(b) any National Reserve or part thereof shall cease to be a National Reserve;

(c) any Sanctuary or part thereof shall cease to be a Sanctuary ;

(d) that a National Reserve of one class shall be a National Reserve of another class.

(5) (a) The Minister may, by Order, declare that the limits of any National Reserve or Sanctuary shall be altered or varied. [§ 3, 1 of 1970.]

(b) Any Order made by the Minister under this subsection shall have no effect unless it has been approved by Parliament and notification of such approval is published in the Gazette.

**3.** (1) Save as hereinafter provided—

(a) no person shall be entitled to enter any Strict Natural Reserve, Nature Reserve or Jungle Corridor or in any way to disturb the fauna and flora therein;

(b) no person shall be entitled to enter any National Park except for the purpose of observing the fauna and flora therein;

(c) no animal shall be hunted, killed or taken and no plant shall be damaged, collected, or destroyed, in a Strict Natural Reserve, National Park, Nature Reserve or Jungle Corridor,

Essential features of Strict Natural Reserves, Jungle Corridors, National Parks, Sanctuaries and Intermediate Zones. [§ 3, 44 of 1964.]

[§ 3, 44 of 1964.]

[§ 2, 44 of 1964.]  
 [§ 3, 1 of 1970.]



[§ 3, 44 of 1964.]

(d) no person shall hunt, shoot, kill or take any wild animal, or take or destroy any egg of any bird or reptile or any nest of any bird, in any Sanctuary.

(2) A permit under subsection (1) (b) shall be issued only for the purpose of authorizing scientific research.

[§ 4. 1 of 1970.]

(1A) No person shall, on any State land or any part thereof within any Sanctuary, carry, or have in his possession or under his control, a gun, or a cartridge or other explosive of any description except under the authority, and in accordance with the terms or conditions, of a permit issued by the prescribed officer upon the payment of the prescribed fee. The preceding provisions of this subsection shall be in addition to, and not in derogation of, the provisions of the Firearms Ordinance.

5. (1) No person shall enter or remain within any National Park except under the authority and in accordance with the conditions of a permit issued by the prescribed officer on payment of the prescribed fee. Restriction of entry into National Parks.

(2) A permit under subsection (1) shall be issued only for the purpose of enabling the permit-holder to study or observe the fauna and flora in a National Park.

(3) If no fee is prescribed for the issue of a permit under subsection (1), such permit shall be issued free of charge.

[§ 4. 1 of 1970.]

(3) Nothing in the preceding provisions' of this section shall be deemed or construed to prohibit or restrict the exercise by any person of any right acquired by him, whether by law or custom or usage, in or over any land situated within the limits of any Nature Reserve, or Jungle Corridor, or in or over any State land in any Sanctuary, being a right which was so acquired by such person prior to the date of the establishment of such Reserve, Corridor or Sanctuary.

5A. (1) No person shall enter or remain within any Nature Reserve or Jungle Corridor except under the authority and in accordance with the conditions of a permit issued by the prescribed officer on payment of the prescribed fee. Restriction of entry into Nature Reserves and Jungle Corridors. [§ 4, 44 of 1964.]

(2) If no fee is prescribed for the issue of a permit under subsection (1), such permit shall be issued free of charge.

[§ 4. 1 of 1970.]

(4) Any right referred to in subsection (3) which has not been. or is not. exercised by the person entitled thereto for a continuous period of two years shall be deemed to have lapsed, or to lapse, and to have been, or to be, ceded to the State.

6. (1) No person shall in a Strict Natural Reserve, National Park, Nature Reserve or Jungle Corridor— Acts prohibited in Strict Natural Reserves, National Parks. Nature Reserves and Jungle Corridors. [§ 5, 44 of 1964.] [§ 5, 1 of 1970.]

(d) hunt, shoot, kill, wound or take any wild animal or have in his possession or under his control any wild animal, whether dead or alive, or any part of such animal; or

(b) take or destroy any egg of any bird or reptile, or any nest of any bird ; or

(c) fire any gun or do any other act which disturbs or is likely to disturb any wild animal or do any act which interferes or is likely to interfere with the breeding place of any such animal; or

Restriction of entry into Strict Natural Reserves.

4. (1) No person other than the Director shall enter or remain within any Strict Natural Reserve except—

(a) for the purpose of discharging any official duty on the instructions or with the written permission of the Director; or

(d) fell, girdle, lop, tap, burn or in any way damage or destroy any plant, or take, collect, or remove any plant therefrom; or

(b) under the authority and in accordance with the conditions of a written permit from the Director.

(e) clear or break up any land for cultivation, mining or for any other purpose; or

- (f) kindle or carry any fire; or
- (g) possess or use any trap or any explosive or poisonous substance capable of being used for the purpose of injuring or destroying any animal or plant; or
- (h) make any fresh clearing; or
- (i) except under the authority of a permit issued in that behalf by the prescribed officer, erect any building, whether permanent or temporary, or occupy any building so erected; or

[§ 5. 1 of 1970.]

- (j) construct or use any road or path so constructed by him.

(2) No person shall introduce any animal into any Strict Natural Reserve, National Park, Nature Reserve or Jungle Corridor, or tether, liberate or release any animal therein.

[§ 5. 44 of 1964.]

(3) No person shall lead, or allow to stray any domestic animal into any National Reserve- It shall be lawful for the Director or any officer authorized by the Director to seize any domestic animal within any National Reserve and to release it to the owner thereof on the payment of a prescribed fine if such animal is claimed within twenty-eight days of such seizure. Any animal not so claimed may be disposed of by the Director in such manner as he may deem fit.

[§ 5. 44 of 1964.]  
[§ 37. 1 of 1970.]

Acts prohibited in National Reserves, and Sanctuaries.  
[§ 6. 44 of 1964.]

**6A.** (1) No person shall fish or take any aquatic animal or plant from any waters within a National Reserve, or Sanctuary which is on State land, except under the authority, and in accordance with the conditions, of a permit issued by a prescribed officer on payment of the prescribed fee.

(2) No person shall remove any object of archaeological, pre-historic, historical, geological or other scientific interest, or any other object of mineral value, from any National Reserve or Sanctuary except under the authority, and in accordance with the conditions, of a permit issued by the prescribed officer on payment of the prescribed fee.

[§ 6, I of 1970.]

(3) If no fee is prescribed for the issue of a permit under subsection (1) or subsection (2), such permit shall be issued free of charge.

(4) Where the prescribed officer is satisfied that any application for the issue of a permit under subsection (1) is for the purpose of enabling the applicant to catch fish in any waters referred to in that subsection for the local consumption of the inhabitants of any village who have, by custom or usage, fished in such waters for that purpose, then, notwithstanding the provisions of that subsection, such officer shall issue such permit free of charge.

[§ 6, I of 1970:]

**7.** (1) No person shall, except in accordance with regulations—

Acts regulated in intermediate Zones and Sanctuaries.

- (a) enter, or remain in, any Intermediate Zone; or

[§ 7, 1 of 1970.]

- (b) in any Intermediate Zone or Sanctuary—

- (i) fire any gun, or do any other act which disturbs or is likely to disturb any wild animal or do any act which interferes or is likely to interfere with the breeding place of any such animal; or

- (ii) hunt, shoot, kill, or take any wild animal, or have in his possession or under his control any wild animal, whether dead or alive, or any part of any such animal; or

- (iii) take or destroy any egg of any bird or reptile or any nest of any bird; or

- (iv) construct or use any hide or ambush on the ground or on any tree for hunting, shooting, injuring or wounding any wild animal, bird or reptile ; or

[§ 7, 1 of 1970.]

- (v) set, lay or spread any pitfall, trap, snare or other instrument for the purpose of killing or capturing any wild animal, bird or reptile; or

[§ 7. 1 of 1970.]

(c) in any Intermediate Zone or on any State land within any Sanctuary—

(i) fell, girdle, lop, tap, burn or in any way damage or destroy any plant, or take, collect, or remove any plant therefrom; or

(ii) clear or break up any land for cultivation, mining or for any other purpose; or

(iii) kindle or carry any fire; or

(iv) possess or use any trap or any explosive or poisonous substance capable of being used for the purpose of injuring or destroying any animal or plant; or

(v) make any fresh clearing; or

(vi) erect any building whether permanent or temporary or occupy any building so erected unless such person is the holder of a permit issued in that behalf by the prescribed officer; or

(vii) construct or use any road or path so constructed by him.

(2) No person shall, except in accordance with regulations, introduce any animal into any Intermediate Zone or tether, liberate or release any animal therein.

Acts prohibited in vicinity of National Reserve. [§ 7. 44 of 1964.]

8. No person shall, from any road or land outside a Strict Natural Reserve, National Park, Nature Reserve, Jungle Corridor or Intermediate Zone, hunt, shoot, kill or take any wild animal in such reserve, park, corridor or zone.

Special regulations for Part I.

9. Regulations may be made—

(a) prescribing the conditions and restrictions subject to which persons may be permitted to enter any Intermediate Zone or to hunt, shoot, kill or take any wild animal therein;

(b) prescribing the circumstances and cases in which and the conditions and restrictions subject to which wild animals may be hunted, shot, killed or taken in a Sanctuary;

(c) prescribing the conditions to be attached to any permit issued for the purposes of this Part of this Ordinance and the fees to be paid for the issue of such permits ;

(d) for the purpose of extending, with such modification as may be necessary, all or any of the provisions of Part II or of Part III of this Ordinance to any Intermediate Zone or Sanctuary;

(e) for the purpose of extending, with such modification as may be necessary, all or any of the provisions of this Part of this Ordinance to any specified insect;

(f) declaring that all or any of the provisions of this Part of this Ordinance shall not apply to any specified species of animal in any specified area.

10. Any person who acts in contravention of— Offences and penalties under Part I.

(a) any provision of this Part of this Ordinance ; or

(b) any regulation made under section 9 for any purpose set out in that section; or

(c) any provision of Part II or Part III of this Ordinance which has by regulation been extended, with or without modification, to any Intermediate Zone or Sanctuary; or

(d) any provision of this Part of this Ordinance which has by regulation been extended, with or without modification, to any specified insect,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term which may extend to six months or to both such fine and imprisonment.

Interpretation of Part I.

**11.** In this Part of this Ordinance, unless the context otherwise requires—

continue in force for such period and within such limits and be subject to such conditions as the Director may consider necessary or expedient to insert therein.

[§ 37,1 of 1970.]

[§ 8, I of 1970.]

" animal" means any vertebrate or invertebrate animal and includes a bird, fish, or reptile ;

(4) The holder of any licence under subsection (1) (c) shall not later than fifteen days after the expiry of the licence return the expired licence to the Director or the prescribed officer and intimate to him the particulars of any buffalo, deer or fowl captured or killed.

[§ 8, 44 of 1964.]

" domestic animal " means—

(a) any head of cattle, or any sheep, goat, horse, ass, mule, dog, or cat;

[§ 37, 1 of 1970.]

(b) any domestic fowl or other bird commonly reared by man as poultry; and

(c) when domesticated by man, any elephant, buffalo, pig, deer, hare, rabbit, peacock, parrot, pigeon, or other animal;

**13.** (1) (a) Whenever it appears to the Director that in any area outside a National Reserve damage to any person or to any house, crop, plantation or other property is likely to be caused by any elephant or buffalo, he may by notices affixed in conspicuous places within that area declare that area to be one within which damage by elephant or buffalo is apprehended and he may take such steps as may be necessary or expedient to have the elephant or buffalo driven off or captured and may issue licences subject to such conditions as he may deem necessary either free or on payment of the prescribed fee, or of such fee not exceeding the prescribed fee, if any, as he may consider adequate, authorizing the licensee to capture such elephant or buffalo within that area while the declaration is in force.

Declaration of areas in which damage by elephant, or buffalo is apprehended.

[§ 9, 44 of 1964.]

[§ 2, 1 of 1970.]

[§ 37, 1 of 1970.]

"plant" means any member of the vegetable kingdom and includes the seed or any other part of any plant;

" wild animal " means any animal which is not a domestic animal.

**PART II**

**TUSKERS, ELEPHANTS, BUFFALOES,  
DEER AND FOWL**

Protection of tuskers, elephants, buffaloes, deer and fowl in areas outside National Reserves and Sanctuaries.

**12.** (1) Save as is hereinafter provided, no person shall, in any area outside a National Reserve or a Sanctuary—

(b) Whenever it appears to the Director that there is serious danger to life or property in the area referred to in subsection (1) (a), he may issue licences subject to such conditions as he may deem necessary or expedient either free or on payment of the prescribed fee or of such fee not exceeding the prescribed fee, if any, as he may consider adequate, authorizing the licensee to shoot, kill or take the elephant or buffalo, as the case may be, within that area while the declaration is in force.

[§ 37, 1 of 1970.]

[§ 8, 44 of 1964.]

(a) hunt, shoot, kill, injure or take any tusker or elephant; or

(b) during the close season, hunt, shoot, kill, or take any deer or fowl; or

(c) without a licence in that behalf from the Warden—

[§ 2, 1 of 1970.]

(i) capture any buffalo ;

(ii) at any time other than during the close season hunt, shoot, kill or take any deer or fowl.

(2) Every declaration under subsection (1) shall be forthwith reported by the Director to the Minister and shall continue in force for a period of two months from the date of such declaration.

[§ 37, 1 of 1970.]

\* (3) Every licence under subsection (1) shall be issued in the prescribed form on payment of the prescribed fee and shall

(3) The Minister may by notification in the Gazette extend or restrict the period for

\* Subsection (2) is repealed by Act No. I of 1970.

which such declaration shall continue in force, or may otherwise vary or revoke such declaration, but without prejudice to anything done or suffered thereunder prior to the publication of such notification.

Shooting, killing or taking of elephants under special licence. [§ 10, 44 of 1964.] [§ 37, 1 of 1970.] [§ 2, 1 of 1970.]

14. Where the Director is satisfied that any elephant is found trespassing repeatedly in or upon any plantation or cultivated land and is causing serious damage to the owner of the plantation or cultivated land or likely to cause damage to life or property of those living therein, he may issue to any person a special licence, subject to such conditions as he may deem necessary or expedient, either free or on the payment of the prescribed fee or such fee not exceeding the prescribed fee, if any, as he may consider adequate, authorizing that person to follow or pursue such tusker or elephant to any place (not being a place within a National Reserve) and to shoot, kill or take such elephant.

Killing or taking of deer or fowl on cultivated land. [§ 11, 44 of 1964.]

15. (1) It shall be lawful for the owner or person in charge of any cultivated land at any time to set, lay or spread any trap, snare, net or pitfall in or upon that land for the purpose of killing or taking any deer or fowl which trespasses or attempts to trespass thereon.

(2) Save as provided in subsection (1), no person shall set, lay or spread any trap, snare, net or pitfall for the purposes of taking any deer or fowl.

Killing or taking of elephants to be reported forthwith. [§ 12, 44 of 1964.] [§ 2, 1 of 1970.]

16. Any person who in the exercise of any right conferred by or under section 13, or section 14, or section 15, kills or takes any elephant, buffalo, deer or fowl, shall forthwith report such killing or taking to any police officer entitled to officiate in the area within which such killing or capture took place or to any prescribed officer.

Property in elephants, tuskers, &c., killed or taken under Part II,

17. (1) Any elephant duly killed or taken by any person under the authority of any licence issued under this Part of this Ordinance, shall be the property of that person, unless otherwise provided in the conditions attached to the licence.

[§ 2, 1 of 1970.]

(2) Subject to the provisions of subsection (1), every elephant which is killed or captured shall be the property of the State,

(3) Any buffalo, deer, or fowl duly killed or taken by any person in accordance with the provisions of this Part of this Ordinance shall be the property of that person, unless otherwise provided in the conditions attached to the licence, where any such buffalo, deer or fowl was killed or taken under the authority of a licence.

18. Subject to such restrictions or conditions as may be prescribed, the Director may, by sale or otherwise, dispose of the tusks or the carcase, or any part of the carcase, of any dead elephant which is the property of the State.

Director authorized to dispose of tusks and carcasses of dead elephants. [§ 10, 1 of 1970.]

19. (1) A royalty according to such rates as may, from time to time, be prescribed shall be levied as export duty by the officers of customs at the port of shipment in respect of every elephant, whether wild or tame, exported from Sri Lanka to any place outside Sri Lanka.

Royalties payable on export of elephants. [§ 2, 1 of 1970.]

(2) No elephant, whether wild or tame, shall be exported from Sri Lanka to any place outside Sri Lanka except under the authority of a special permit issued by the Director.

[§ 2, 1 of 1970.] [§ 37, 1 of 1970.]

(3) This section shall have effect as if it formed part of the Customs Ordinance and the provisions of that Ordinance shall apply accordingly.

20. Any person who—

Offences—Elephants.

(a) in contravention of this Part of this Ordinance or contrary to the tenor of any licence issued to him thereunder, hunts, shoots, kills, injures, takes, follows, or pursues any elephant; or

[§ 11, 1 of 1970.] [§ 2, 1 of 1970.]

(b) exports any elephant, whether wild or tame, from Sri Lanka except under the authority of a special permit issued under section 19, or in any way evades payment of the royalty payable on such export,

[§ 2, 1 of 1970.]

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two thousand rupees or to imprisonment of either description for a term which may extend to two years or to both such fine and

[§ 13, 44 of 1964.] [§ 13, 44 of 1964.]

**FAUNA AND FLORA PROTECTION [Cap.567]**

imprisonment; and where any person who is convicted of an offence mentioned in paragraph (a) of this section in respect of the killing or taking of any elephant is found by the court to be in possession of that elephant or its carcase or tusks, the court may make order directing such elephant, carcase, or tusks to be delivered to the possession or custody of any officer of Government to be held by that officer for and on behalf of the State.

[§ 2, 1 of 1970.]

Offences-Dead elephants. [§ 12, 1 of 1970.]

**21.** (1) Subject to the provisions of subsection (2), any person who takes, dismembers, removes, sells or purchases the carcase, or any part of the carcase, of any dead elephant which is the property of the State shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two hundred rupees or to imprisonment of either description for a term which may extend to one month or to both such fine and imprisonment.

(2) Nothing in subsection (1) shall apply to the carcase or any part of the carcase of any dead elephant which is the property of the State if such carcase or such part of the carcase has been disposed of by the Director under section 18.

Offences Buffaloes, deer, or fowl.

**22.** Any person who—

(1) in contravention of this Part of this Ordinance or contrary to the tenor of any licence issued to him thereunder, hunts, shoots, kills, or takes any buffalo, deer, or fowl; or

(2) in contravention of this Part of this Ordinance—

(a) sets, lays, or spreads any snare, net, or pitfall for the purpose of killing or taking any deer or fowl; or

(b) during the close season, hunts, shoots, kills or takes any deer or fowl; or

(3) during the close season takes or removes the eggs of any fowl,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding

three hundred rupees or to imprisonment of either description for a term which may extend to three months or to both such fine and imprisonment. [§ 15, 44 of 1964.]

**22A.** (1) No person shall own, have in his custody or make use of an elephant unless it is registered and unless a licence in respect of the elephant has been obtained in accordance with the provisions of this section. Registration and licensing of elephants. [§ 16, 44 of 1964.] [§ 2, 1 of 1970.]

(2) Every person who owns or has in his custody an elephant shall register such elephant with the prescribed officer.

(3) Every person who owns or has in his custody an elephant shall, prior to registration, pay such registration fee as may be prescribed.

(4) The Director shall maintain a register of elephants in such form as may be prescribed. [§ 37, 1 of 1970.]

(5) Every person who owns or has in his custody an elephant shall, upon payment of the prescribed licence fee, obtain from the prescribed officer an annual licence in respect of such elephant.

(6) Where a person becomes the owner, or obtains the custody, of an elephant by virtue of sale, gift, the death of the previous owner or in any other manner whatsoever, such person shall immediately inform the Director or prescribed officer and, if the elephant is registered or licensed, take such steps as may be prescribed to have the previous registration and licence cancelled and to have a fresh registration made and a fresh licence obtained. [§ 2, 1 of 1970.] [§ 37, 1 of 1970.]

(7) Any person who owns, has in his custody or makes use of an elephant which is not registered, and in respect of which a licence has not been obtained, in accordance with the provisions of this section, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five hundred rupees or to imprisonment of either description which may extend to three months or to both such fine and imprisonment. [§ 2, 1 of 1970.]

(8) Regulations may be made—

under this Ordinance or under any written law repealed by Ordinance No. 2 of 1937; or

(a) specifying the officers to whom applications for registration of, and licences in respect of, elephants shall be made, and who shall have power to register and issue licences in respect of elephants;

(b) he is the successor in title to such captor; or

(c) he is in possession on behalf of such captor or his successor in title.

(b) specifying the particulars to be set out in any such application, in the document certifying such registration and in such licence, including reference to identification marks and other details of the elephant to which the application, document certifying registration or licence relates;

24. (1) No person shall have in his possession a tusk or tush unless such tusk or tush has been registered with a prescribed officer.

Tusks and tushes to be registered. [§ 18, 44 of 1964.]

(2) Every prescribed officer shall keep a register for the registration of tusks and tushes in such form as may be prescribed.

(c) specifying the conditions subject to which such registration shall be made and licence issued and the fees payable for such registration and licence;

(3) Any person who has in his possession a tusk or tush which has not been registered shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two hundred rupees or to imprisonment of either description for a term which may extend to two weeks or to both such fine and imprisonment.

(cf) specifying the form in which prescribed officers shall maintain registers under this section ; and

(4) The court may, on the conviction of any person of an offence under subsection (3), make order for the disposal of the tusk or tush in respect of which the offence was committed, having regard to the rights of any other person who may appear to the court to be lawfully entitled to the possession of such tusk or tush.

(e) specifying the manner in which any such registration or licence shall be cancelled and a fresh registration made and a fresh licence issued.

23. (1) Any person who is in unlawful possession of an elephant shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two thousand rupees or to imprisonment of either description for a term which may extend to one year or to both such fine and imprisonment; and the court may on the conviction of any such person make order for the disposal of the elephant in respect of which the offence was committed, having regard to the rights of any other person who may appear to the court to be lawfully entitled to the possession of such elephant-

(5) Regulations may be made—

(a) specifying the officer who shall have power to register tusks and tushes, and

(b) specifying the form in which prescribed officers shall maintain registers under this section.

(2) A person who is found in possession of an elephant shall be deemed to be in unlawful possession of that elephant unless—

25. (1) Where it appears to the Director or to any police officer or other prescribed officer that any person is in unlawful possession of any elephant, tusk or tush, it shall be lawful for the Director or such police or other prescribed officer to seize such elephant, tusk or tush and detain such elephant and to apply to the Magistrate having jurisdiction over the place where the

Power of Director, &c., to seize elephant, tusk or tush on suspicion. [§ 19, 44 of 1964.] [§ 37, 1 of 1970.] [§ 2, 1 of 1970.]

[§ 2, 1 of 1970.]

Penalty for unlawful possession of elephant. [§ 17, 44 of 1964.] [§ 2, 1 of 1970.]

[§ 2, 1 of 1970.]

elephant, tusk or tush was seized to make order for the disposal of such elephant, tusk or tush and the Magistrate to whom such application is made may, after such inquiry as he may deem necessary, make such order for the disposal of the elephant, tusk or tush as the justice of the case may require.

(2) An order made under this section shall not affect the liability of any person to be prosecuted for any offence committed in respect of the elephant, tusk or tush to which the order relates.

**26.** (1) Any person who is in unlawful possession of—

- (a) the meat or flesh of any deer or fowl; or
- (b) the hide or horn of any deer; or
- (c) the skin, feathers or eggs of any fowl,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two hundred and fifty rupees or to imprisonment of either description for a term which may extend to three months or to both such fine and imprisonment.

(2) A person who is found in possession of—

- (a) the meat or flesh of any deer or fowl; or
- (b) the hide or horn of any deer; or
- (c) the skin, feathers or eggs of any fowl,

shall be deemed to be in unlawful possession thereof unless such meat, flesh, hide, horn, skin, feathers or eggs, as the case may be, was or were part of or taken or obtained from any deer or fowl lawfully killed or taken in accordance with the provisions of this Part of this Ordinance.

**27.** Regulations may be made prescribing the circumstances in which and the conditions subject to which the Director may waive or reduce the fee prescribed for the issue of any licence under this Part of this Ordinance.

**28.** In this Part of this Ordinance, unless otherwise expressly provided or unless the context otherwise requires—

" buffalo " means a wild buffalo ;

" deer" means any of the following species of deer:—

(a) Sambur (*Rusa unicolor unicolor*),

(b) Spotted deer (*Axis axis Ceylonensis*)

(c) Red or barking deer (*Muntiacus malabaricus*),

(d) Mouse deer (*Tragalus meminna*);

"elephant" means a wild elephant, and includes a tusker, and for the purposes of section 22A, includes a tame or domestic elephant or tusker;

" fowl" means any of the following species of fowl or partridge;—

(a) Pea fowl (*pavo cristalus*),

(b) Ceylon spur fowl (*Galloperdix bisalcarata*),

(c) Grey partridge (*Francolinus pondicerianus*),

(d) Painted partridge (*Francolinus pielus*),

(e) Jungle fowl (*gallus lafayetteii*),

(f) Ceylon jungle bush quail (*perdicula asialica Ceylonensis*),

" tusk " means the tusk of a tusker;

" tush " means the tush of a tusker;

" tusker " means a wild elephant with a pair of incisors (teeth) or a single incisor.

**29.** The foregoing provisions of this Part of this Ordinance shall have no application to the hunting, killing, taking, pursuit, or possession of—

- (a) any elephant seized or taken at any elephant kraal held under the Elephant K-raal Ordinance, or

Interpretation of Part II.

[§ 14, 1 of 1970.]

[§ 21, 44 of 1964.]

[§ 21, 44 of 1964.]

[§ 21, 44 of 1964.]

[§ 21, 44 of 1964.]

[§ 21, 44 of 1964.]

[§ 14, 1 of 1970.]

Part II not to apply to elephants, &c., seized at kraals.

[§ 2, 1 of 1970.]

[§ 19, 44 of 1964.]  
[§ 2, 1 of 1970.]  
Penalty for unlawful possession of meat. &c., of deer and fowl.

[§ 13, 1 of 1970.]

[§ 20, 44 of 1964.]

Special regulations for Part II.  
[§ 37, 1 of 1970.]



(b) any buffalo seized or taken at any buffalo kraal held in such manner and circumstances and subject to such conditions as may be prescribed.

authorized or permitted by any regulation made under section 32.

**31.** (1) Any person who in any area outside a National Reserve or Sanctuary—

Offences relating to reptiles and beasts included in Schedules III and IV. [§ 23, 44 of 1964.] [§ 15, 1 of 1970.]

**PART III**

**BIRDS, BEASTS, AND REPTILES**

Offences relating to birds. [§ 22, 44 of 1964.]

**30.** (1) Any person who in any area outside a National Reserve or a Sanctuary—

- (a) knowingly kills, wounds or takes any bird ; or
- (b) takes or destroys the eggs or nest of any bird ; or
- (c) uses any boat or any lime, snare, net, trap or other instrument for the purpose of killing or taking any bird; or
- (d) has in his possession or under his control any bird recently killed or taken, or the skin of any bird recently killed or taken, or the feathers of any bird recently killed or taken or the recently taken eggs of any bird ; or
- (e) exposes or offers for sale any bird or any part of any bird,

(a) kills, wounds or takes any reptile or beast included for the time being in Schedules III and IV ; or

(b) takes or destroys the eggs or nest of any such reptile ; or

(c) uses any boat or any lime, snare, net, trap or other instrument for the purpose of killing or taking any such reptile or beast; or

(d) has in his possession or under his control any such reptile or beast recently killed or taken or the skin of any such reptile or beast recently killed or taken, or the recently taken eggs of any such reptile ; or

(e) exposes or offers for sale any such reptile or beast or any part of any such reptile or beast; or

(f) purchases the skin of any such reptile or beast for the purpose of tanning or preparing such skin for use,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two hundred and fifty rupees or to imprisonment of either description for a term which may extend to three months or to both such fine and imprisonment;

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two hundred and fifty rupees or to imprisonment of either description for a term which may extend to three months or to both such fine and imprisonment:

Provided that no person shall be deemed to have committed an offence under this section in relation to any bird specified in Schedule I at any time of the year, and in relation to any bird specified in Schedule II in the open season.

Provided that no person shall be deemed to have committed an offence under this section in relation to any reptile or beast specified in Schedule IV in respect of any action permitted by virtue of a licence issued by the Director.

[§ 37, 1 of 1970.]

(2) A person shall not be guilty of an offence under this section if the act which constitutes such offence has been done in the circumstances and subject to the conditions under which such act is

(2) A person shall not be guilty of an offence under this section if the act which constitutes such offence has been done in the circumstances and subject to the conditions under which such act is authorized or permitted by any regulation made under section 32.

[§ 23, 44 of 1964.]

(3) Every licence referred to in subsection (1) shall be issued in the prescribed form on payment of the prescribed fee and shall be valid for such period and within such limits, and be subject to such conditions, as the Director may consider necessary or expedient.

[§ 37, 1 of 1970]

**37.** (1) No person shall import into Sri Lanka any living bird, beast, or reptile of a species which is not indigenous to Sri Lanka, or the eggs of any such bird or reptile, except upon a permit in the prescribed form obtained from the prescribed officer on payment of the prescribed fee.

Prohibition of import of non-indigenous birds, beasts, and reptiles without permits.

Sections 30 and 31 inapplicable in prescribed cases.

[§ 16, 1 of 1970.]

**32.** The Minister may by regulation prescribe the circumstances in which and the conditions subject to which any person may be authorized or permitted to do any act which is penalized by section 30 or section 31.

(2) This section shall have effect as if it formed part of the Customs Ordinance and the provisions of that Ordinance shall apply accordingly.

Alteration of Schedules I, II, III and IV. [§ 24, 44 of 1964.]

**\*34.** The Minister may by regulation add to, rescind, vary, or amend any of the provisions of Schedules I, II, III and IV.

Proof of species of bird, beast, or reptile. [§ 17, 1 of 1970.]

**35.** (1) A certificate purporting to be signed by any competent authority to the effect that any bird, beast, or reptile or part of any bird, beast, or reptile forwarded to him for examination and report is a bird, beast, or reptile or a part of a bird, beast, or reptile of a species for the time being included in Schedule I, Schedule II, Schedule III or Schedule IV, shall, on production in any court of law, be sufficient evidence of the facts stated in such certificate until the contrary is proved.

(3) In any case of doubt or dispute a certificate purporting to be signed by the Director of Museums to the effect that any bird, beast or reptile belongs to a species which is not indigenous to Sri Lanka or that any species of any bird, beast, or reptile is a species not indigenous to Sri Lanka, or that any egg of any bird or reptile is the egg of a bird or reptile of a species which is not indigenous to Sri Lanka shall for all purposes be final and conclusive as to the facts stated therein.

[§ 25, 44 of 1964.]

(4) In this section the expression "bird, beast, or reptile" does not include a domestic animal as defined in section 11.

[§ 17, 1 of 1970.]

(2) For the purposes of subsection (1), the expression "competent authority" means—

- (a) the Director of Museums;
- (b) the Director, Zoological Gardens.

**38.** Regulations may be made-

Regulations relating to non-indigenous birds, beasts, and reptiles.

(a) requiring any person who imports any bird, beast or reptile on a permit issued under section 37 to produce a certificate from an approved authority that such bird, beast, or reptile is free from disease or infection;

Temporary prohibition against killing or taking of birds in specified areas. [§ 18, 1 of 1970.]

**36.** The Minister may by notification in the Gazette declare that for a specified period no person shall shoot, kill, or take any bird of any species in any area outside a National Reserve or a Sanctuary mentioned in the notification ; and any person who in any such area and during such specified period shoots, kills, or takes any bird, save on any cultivated land shall be guilty of an offence and shall on conviction be liable to a fine not exceeding twenty-five rupees or to imprisonment of either description for a term which may extend to one month or to both such fine and imprisonment.

(b) prohibiting any bird, beast, or reptile imported on a permit issued under section 37 from being liberated or released in any part of Sri Lanka, or prescribing any area or areas within which any such bird, beast, or reptile may be liberated or released ;

(c) exempting any specified species of bird, beast, or reptile from the operation of section 37 or of any regulation made under this section.

\* Section 33 is repealed by Act No. 1 of 1970.

Penalties for unlawful import or release of non-indigenous birds, beasts, and reptiles.

- 39.** (1) Any person who—
- (a) imports into Sri Lanka any bird, beast, or reptile in contravention of the provisions of section 37 or of any regulation made under section 38; or
  - (b) contravenes any regulation made under section 38,

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 which may extend to six months or to both such fine and imprisonment.

(2) Any person who liberates or releases any bird, beast, or reptile which has been imported into Sri Lanka in contravention of the provisions of section 37 shall be guilty of an offence and shall, in addition to any punishment to which he may be liable under subsection (1), be liable on conviction to a fine of five hundred rupees in respect of each bird, beast, or reptile so liberated or released.

[§ 26, 44 of 1964.]

Prohibition of export of birds, beasts, and reptiles without a permit.

- 40.** (1) No person shall export from Sri Lanka—
- (a) any bird, beast or reptile, whether dead or alive ; or
  - (b) the eggs, feathers, or plumage of any bird, the horns or skin of any beast, or the eggs or skin of any reptile, or any other part of any bird, beast or reptile,

except upon a permit in the prescribed form obtained from the prescribed officer on payment of the prescribed fee.

(2) Such permit shall not be issued except for the promotion of scientific knowledge including supplies to museums, zoological gardens and in exchange for supplies to local museums or zoological gardens or for such other purposes as may be prescribed.

[§ 27, 44 of 1964.]

(3) This section shall have effect as if it formed part of the Customs Ordinance, and the provisions of that Ordinance shall apply accordingly.

[§ 27, 44 of 1964.]

(4) In this section—

[§ 27, 44 of 1964.]

" bird " or " reptile " does not include any bird or reptile of a species which is not indigenous to Sri Lanka;

" beast " does not include—

- (a) any animal the exportation of which is restricted by section 19, or
- (b) any domestic animal as defined in section 11, or
- (c) any beast of a species which is not indigenous to Sri Lanka.

(5) In any case of doubt or dispute a certificate purporting to be signed by the Director of Museums to the effect that any bird, beast, or reptile belongs to a species which is not indigenous to Sri Lanka, or that any species of any bird, beast, or reptile is a species not indigenous to Sri Lanka, or that any part of any bird, beast, or reptile is a part of a bird, beast, or reptile of a species which is not indigenous to Sri Lanka, or that any egg of any bird or reptile is the egg of a bird or reptile of a species which is not indigenous to Sri Lanka shall for all purposes be final and conclusive as to the facts stated therein.

[§ 27, 44 of 1964.]

**41.** Any person who exports from Sri Lanka any bird, beast, or reptile, whether dead or alive, or any part of any bird, beast, or reptile, or any eggs, feathers, plumage, horns or skin in contravention of the provisions of section 40 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 which may extend to six months or to both such fine and imprisonment.

Penalty for unlawful export of birds, beasts, and reptiles.

**PART IV**

**FLORA**

- 42.** (1) No person shall in any area—
- (a) remove, uproot or destroy, or cause any damage or injury to, any plant which is for the time being included in Schedule V and —
    - (i) is the property of any other person; or

Protection of plants included in Schedule V. [§ 28, 44 of 1964.] [§ 19, I of 1970.]

(ii) is growing in any public place;  
or

(b) destroy any plant which is for the time being included in Schedule V and is his own property ; or

(c) sell or expose or offer for sale any plant for the time being included in Schedule V,

except upon a permit in the prescribed form obtained from the prescribed officer on payment of the prescribed fee.

(2) If no fee is prescribed for the issue of a permit for the purposes of subsection (1), that permit shall be issued free of charge.

[§ 28, 44 of 1964.]  
[§ 19, 1 of 1970.]

[§ 28, 44 of 1964.]  
[§ 19, 1 of 1970.]

Protected trees.

**43.** No person shall uproot or destroy or cause any damage or injury to any tree (hereinafter called a "protected tree") growing in any public place and included for the time being in Schedule VI:

Provided that nothing herein contained shall be deemed to prohibit or to penalise any act done by or on the orders of any person entrusted by the State or by any local authority with the charge or care of any protected tree if such act is done in order to stimulate the growth or to improve the condition or appearance or to secure the safety or to preserve the existence of any such tree.

[§ 29, 44 of 1964.]

Alteration of Schedules V and VI.  
[§ 30, 44 of 1964.]

**44.** The Minister may by regulation add to, rescind, vary or amend any of the provisions of Schedule V or Schedule VI;

Provided that no tree shall be so added to the list of trees in Schedule VI unless that tree is growing in a public place and unless in the opinion of the Minister the preservation or protection of that tree is necessary or desirable for scientific or aesthetic purposes or on religious or historical grounds.

[§ 30, 44 of 1964.]

Regulations relating to flora.

**45.** Regulations may be made—

(a) prohibiting or regulating the exportation from Sri Lanka of any specified plant, whether or not such plant is included for the time being in Schedule V ;

[§ 31, 44 of 1964.]

(b) prohibiting or regulating the cultivation of any specified plant;

(c) prescribing the conditions to be attached to any permit issued under section 42;

(d) generally, for the protection and conservation of the wild vegetation, plant life and flora of Sri Lanka.

**46.** Any person who acts in contravention—

Offences under Part IV.

(a) of the provisions of section 42 or of any permit issued to him under that section or of any condition attached to any such permit; or

(b) of the provisions of section 43 ; or

(c) of any regulation made under section 45,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term which may extend to one month or to both such fine and imprisonment.

**47.** Nothing in this Part of this Ordinance shall affect the provisions of—

Savings-Part IV.

(a) the Forest Ordinance, or any rules or regulations made thereunder;

(b) the Water Hyacinth Ordinance ;

(c) the Plant Protection Ordinance, or of any regulation made thereunder;

(d) the Tea Control Act, or of any regulation made thereunder;

(e) the Rubber Control Act, or of any regulation made thereunder;

(f) any other written law relating to the cultivation or to the regulation or the prohibition of the cultivation of any plant.

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

Interpretation of Part IV.

" plant" means any member of the vegetable kingdom and includes the seed and any part of a plant other than the flower;

"public place " means any State land or land at the disposal of the State or land belonging to or vested in a local authority and includes any land which is not private property.

PART V

MISCELLANEOUS PROVISIONS

Taxidermists and traders in animals, skins, &c., to be licensed. [§ 32, 44 of 1964.]

49. (1) No person shall carry on or exercise the business or trade of a taxidermist, tanner, curer or trophy-dealer, or any other business or trade involving the purchase or sale of any animal, whether dead or alive, or of any part of any dead animal, except upon a licence in respect of each such business or trade in the prescribed form obtained from the prescribed officer on payment of the prescribed fee.

(2) Every licence issued under subsection (1) shall be subject to the prescribed conditions and if no fee is prescribed for the issue of such a licence, it shall be issued free of charge.

(3) In this section "animal" means an animal as defined in section 11, but does not include a domestic animal as defined in that section.

No gun to be discharged on a prohibited road.

50. (1) The Minister may by notification in the Gazette declare any road in any area outside a National Reserve or a Sanctuary to be a prohibited road for the purposes of this Ordinance.

(2) Any person who discharges any gun on any prohibited road or on any land adjoining any such road and reserved for its extension, protection or benefit, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term which may extend to one month or to both such fine and imprisonment.

(3) Regulations may be made prescribing the means by which and the manner in which the fact that any road is a prohibited road for the purposes of this Ordinance may be brought to the notice of members of the public who have occasion to use that road or to travel thereon.

51. No person shall shoot at any bird or animal from any position in or on any moving or stationary vehicle of any kind. Prohibition of shooting from vehicles.

52. No person shall use any artificial light for the purpose of enabling or facilitating the destruction of any bird or animal, whether by dazzling the vision of any such bird or animal or otherwise. Prohibition of use of artificial lights.

52A. No person shall shoot at, injure or kill any prescribed animal, reptile or bird within a distance of one hundred yards from a water-hole or place where animals usually go to drink water. Prohibition of shooting, &c., in vicinity of water-holes [§ 33, 44 of 1964.] [§ 20, 1 of 1970.]

53. Except in accordance with regulations, no person shall on any State land or any public thoroughfare outside a National Reserve—

(a) hunt, shoot, kill, or take any animal, reptile, or bird, between sunset and sunrise; Regulation of hunting, shooting, &c., on State land or public thoroughfare outside National Reserves. [§ 34, 44 of 1964.] [§ 21, 1 of 1970.]

(b) set, lay, or spread any net, pitfall, trap, snare or other instrument for the purpose of killing or taking any animal, reptile, or bird ; or [§ 34, 44 of 1964.]

(c) construct or use any ambush, or hide on the ground or on a tree for the purpose of shooting or injuring any animal, reptile or bird. [§ 34, 44 of 1964.]

53A. No person shall use any poison, explosive or stupefying substance for the purpose of poisoning, killing or stupefying any animal, reptile or bird. Prohibition of the use of poison, &c., on animals, reptiles or birds. [§ 35, 44 of 1964.]

53B. No person shall have in his possession, sell, expose for sale or transport the flesh of any animal, reptile or bird which has been killed or taken by the use of any poison, explosive, or stupefying substance: Prohibition of the possession, &c., of the flesh of any animal, reptile or bird killed or taken by the use of poison, &c. [§ 35, 44 of 1964.]

Provided that no person shall be convicted under this section if he proves that he did not know and had no reasonable cause to believe that the animal, reptile or bird, whose flesh he is charged with having in his possession, selling, exposing for sale or transporting, had been killed or taken by the use of any poison, explosive, or stupefying substance.

**54.** No person shall at any restaurant, hotel, rest-house or eating house, serve or authorize the serving of any food which constitutes or contains the flesh of any animal, reptile or bird the killing of which is prohibited under this Ordinance.

**55.** (1) The Director may by a writing under his hand authorise any person to do any act otherwise prohibited or penalized under this Ordinance or any regulation made thereunder, if in the opinion of the Director such act should be authorized for the protection, preservation or propagation, or for the scientific study or investigation, or for the collection of specimens for a zoo, museum or similar institution, of the fauna and flora of Sri Lanka.

(2) No person authorized under subsection (1) to do any act shall, by reason only of the commission of that act, be guilty of an offence under this Ordinance or any regulation made thereunder.

**PART VI**

**GENERAL**

**LICENCES AND PERMITS**

**56.** (1) The Director or any officer empowered to issue a licence or permit under this Ordinance or any regulation made thereunder may in his discretion—

- (a) insert in any such licence or permit any condition which he may consider necessary or expedient;
- (b) refuse to issue any such licence or permit;
- (c) revoke any such licence or permit, by notice in writing to the person to whom such licence or permit was issued.

(2) Any person aggrieved by the refusal or revocation of any permit or licence (other than a licence under section 49) may appeal against such refusal or revocation to the Minister.

(3) Any person aggrieved by the refusal to issue a licence under section 49 or by the revocation of any licence issued under that section may appeal against such refusal or revocation to the Minister.

(4) The decision of the Minister on any appeal preferred under subsection (2) or subsection (3), as the case may be, shall be final and conclusive.

(5) Regulations may be made prescribing the time within which appeals shall be preferred and generally in respect of all matters incidental to or connected with the hearing or disposal of such appeals.

**57.** (1) No person other than the person named in any licence or permit issued under this Ordinance or any regulation made thereunder shall be entitled under cover of that licence or permit to do any act to authorize which that licence or permit was issued.

Licences and permits not to be transferred.

(2) Any person who transfers to any other person any licence or permit issued to him under this Ordinance or any regulation made thereunder shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term which may extend to one month or to both such fine and imprisonment.

**OFFENCES AND PENALTIES**

**58.** Any person who does any act in contravention of any of the provisions of this Ordinance or of any regulation or of any condition inserted in any licence or permit issued under this Ordinance or under any regulation shall be guilty of an offence punishable, where no other penalty is expressly provided by this Ordinance, with a fine not exceeding three hundred rupees or with imprisonment of either description for a term which may extend to three months or with both such fine and imprisonment.

General penalty.

[§ 38, 44 of 1964.]

**58A.** Notwithstanding anything in any other provision of this Ordinance, where any person is convicted of the offence of killing, hunting, shooting, injuring or taking, or of having in his possession or under his control, any wild elephant within

Special penalty for offences against elephants. [§ 22, 1 of 1970.]

Prohibition of serving as food the flesh of any animal, reptile or bird the killing of which is prohibited.

Circumstances in which acts otherwise prohibited may be authorized. [§ 37, 44 of 1964.] [§ 37, 1 of 1970.]

Refusal and revocation of licences and permits. [§ 37, 1 of 1970.]

a Natural Reserve or Sanctuary, he shall be liable to be punished with a fine not exceeding three thousand rupees, or to imprisonment of either description for a term which may extend to three years, or to both such fine and imprisonment.

Attempts and abetment.

**59.** Any person who attempts to commit or abets the commission of any offence under this Ordinance or any regulation made thereunder shall himself be guilty of the same offence.

General exceptions to criminal liability.

**60.** (1) An act otherwise prohibited or penalised under this Ordinance or any regulation made thereunder shall not be an offence if it is done—

[§ 39, 44 of 1964.]

(a) for the purpose of protecting any human being or any domestic animal from any immediate danger or from injury by any wild animal; or

[§ 39, 44 of 1964.]

(b) for the purpose of killing or taking in or in the immediate vicinity of any human dwelling or of the land in which such dwelling is situate any leopard, bear, wild boar, crocodile or poisonous reptile.

(2) In this section the expressions "animal", "domestic animal" and "wild animal" respectively have the meanings assigned to those expressions in section 11.

[§ 23, 1 of 1970.]

(3) The following provisions shall apply in any case where any wild animal is killed or taken by any person in such circumstances that such killing or taking is not an offence by virtue of the operation of subsection(1):—

(a) such person shall forthwith report such killing or taking to any police officer or grama seva niladhari entitled to officiate in the area within which such killing or taking took place, or to any prescribed officer;

(b) such police officer or grama seva niladhari or prescribed officer, as the case may be, shall, upon the receipt of such report, investigate the circumstances in which such

killing or taking took place and report the result of the investigation to the Director;

(c) such wild animal shall be the property of the State and accordingly such police officer or grama seva niladhari or prescribed officer, as the case may be—

(i) shall, if such wild animal was so taken, take over such wild animal for and on behalf of the State; or

(ii) shall, if such wild animal was so killed, take over the carcass of such wild animal for and on behalf of the State, and shall thereafter sell such carcass by public auction, issue a receipt in respect of such sale to the purchaser, and credit the proceeds of such sale to the Wild Life Preservation Fund.

(4) Any person who fails to report the killing or taking of any wild animal to any police officer or grama seva niladhari or prescribed officer as required by paragraph (a) of subsection (3) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two hundred and fifty rupees or to imprisonment of either description for a period which may extend to three months or to both such fine and imprisonment. [§ 23, 1 of 1970.]

(a) of subsection (3) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two hundred and fifty rupees or to imprisonment of either description for a period which may extend to three months or to both such fine and imprisonment. [§ 40, 44 of 1964.]

**\*62.** The Director may at any time compound any offence under this Ordinance; and where a prosecution has been entered against any person for any offence under this Ordinance, the Director may compound such offence at any time before judgment and may withdraw such prosecution. Power to compound offences. [§ 37, 1 of 1970.]

**63.** It shall be lawful for a Magistrate summarily to try any offence under this Ordinance or under any regulation : Offences to be triable summarily by Magistrates' Courts,

Provided that nothing herein contained shall affect the right of a Primary Court to try any such offence in respect of which jurisdiction is conferred on such court.

\* Section 61 is repealed by Act No. 44 of 1964.

Power of Magistrate's Court to make order of confiscation. [§ 2, 1 of 1970.]

[§ 24, 1 of 1970.]

**64.** (1) Except as is hereinbefore expressly provided in regard to the disposal of any elephant or of the carcase of any elephant or the tusks of any tusker on the conviction of any person for an offence relating to an elephant, any animal or any part of any animal in respect of which any offence has been committed and any gun, vehicle, boat, artificial light, snare, net, trap, or other instrument, contrivance, appliance or thing used in or for the commission of any offence may be confiscated by order of the court before which the offender is convicted and may be disposed of in such manner as the court may direct.

(2) In this section "animal" means an animal as defined in section 11.

Share of fines to the Wild Life Preservation Fund. [§ 41, 44 of 1964.] [§ 25, 1 of 1970.] [§ 37, 1 of 1970.]

**65.** Where a prosecution under this Ordinance or any other written law is instituted by an officer of the Department of Wild Life Conservation, the court may direct that one-half of any fine recovered in the case shall be paid into the Wild Life Preservation Fund which shall be maintained and operated on by the Director in the prescribed manner.

Powers of arrest and search. [§ 42, 44 of 1964.]

**66.** (1) Where a police officer or prescribed officer has reasonable grounds for believing that any person has committed an offence he may, subject to such restrictions as may be prescribed—

(a) require such person to produce for his inspection any animal or bird or the carcase or part of the carcase of any animal or bird in his possession, or any licence, permit or other document issued to him or required to be kept by him under the provisions of this Ordinance ;

(b) stop and search any person or any boat, vessel or vehicle and open any package or container found on such person or carried in such boat, vessel or vehicle;

(c) seize any animal or bird or the carcase or part of the carcase of any animal or bird in the possession of any person and appearing to such officer to be the property of the State under the provisions of this Ordinance ;

[§ 26, 1 of 1970.]

(d) unless he is satisfied that such person will appear and answer any charge preferred against him, arrest and detain such person without warrant and seize anything in his possession which may be produced in evidence of his offence;

[§ 26, 1 of 1970.]

(e) seize any boat, vessel, vehicle, gun, cartridge, knife, torch, battery, or any other article or equipment which appears to such officer to have been used in the commission of the offence, or which may be produced in evidence of the offence.

[§ 26, 1 of 1970.]

(2) Any person who without reasonable cause fails to produce and hand over anything which a police officer or prescribed officer acting under the provisions of this section may require him to produce or hand over, shall be guilty of an offence.

(3) Any person who—

[§ 26, 1 of 1970.]

(a) fails or refuses to stop any boat, vessel or vehicle when called upon to do so by a police officer or prescribed officer, or

(b) does not allow the search of any boat, vessel or vehicle by a police officer or prescribed officer, or

(c) refuses to be searched by, or obstructs or resists, or escapes or attempts to escape from the custody of, a police officer or prescribed officer acting under the provisions of this Ordinance,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term which may extend to six months or to both such fine and imprisonment.

**66A.** Any officer appointed for the purposes of this Ordinance under section 68—

Offences by officers. [§ 27, 1 of 1970.]

(a) who is guilty of prevarication in any judicial trial for an offence under this Ordinance; or



(b) who wilfully fails in his duty to report any offence under this Ordinance,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term which may extend to one month or to both such fine and imprisonment.

Power to ascertain name and address of an offender. [§27, I of 1970.]

**66B.** Where any person is found offending against any part of this Ordinance, it shall be lawful for any prescribed officer to require the person offending to state his name and place of abode, and in case a person so offending after being so required refuses to state his correct name or place of abode or states a name or place of abode which is incorrect, he shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding twenty rupees.

Erection of barriers and search of vehicles, &c.. on roads adjoining National Reserve, &c. [§ 28, I of 1970.] [§ 37, 1 of 1970.]

**67.** (1) For the purpose of preventing the commission of offences against section 8 of this Ordinance on any portion of any road running alongside a Strict Natural Reserve, National Park or Intermediate Zone, Nature Reserve, Jungle Corridor or Sanctuary—

(a) it shall be lawful for the Director to cause barriers to be placed across each end of that portion of the road, so as to enable vehicles to be stopped and searched thereat as hereinafter provided ; and

(b) it shall be lawful for a prescribed officer to stop at such barrier any vehicle which is about to enter that portion of the road, and to search the vehicle and any person in the vehicle, for the purpose of ascertaining whether any gun is being carried therein, and in any case where any gun is so found therein, to require the person for the time being in charge of the vehicle to permit such officer or any other person specified by such officer to travel in that vehicle during the whole or any part of the journey to be performed on that portion of the road.

(2) Where the person for the time being in charge of any vehicle which is stopped at any barrier under subsection (1) refuses, upon being required so to do under that subsection, to permit a prescribed officer or any person specified by such officer to travel in the vehicle, it shall be lawful for the prescribed officer to take such steps as may be necessary to prevent the vehicle from proceeding beyond the barrier.

**67A.** Where any offence under this Ordinance is committed by any person in any part of the territorial waters\* of Sri Lanka, the Magistrate's Court having jurisdiction—

Jurisdiction over offences committed at sea. [§ 29, 1 of 1970.]

(a) over the part of the coast nearest to which the offence was committed ; or

(b) over the place at which the person came ashore after the commission of the offence,

shall have jurisdiction to try the offence.

**67B.** (1) Notwithstanding anything to the contrary in the First Schedule to the Code of Criminal Procedure Act, every offence under this Ordinance shall be a cognizable offence and a bailable offence within the meaning of that Act.

Offences under the Ordinance to be cognizable and bailable. [§ 29, I of 1970.]

(2) The Director and every prescribed officer shall have the power to release any person arrested under this Ordinance on bail or on such person executing a bond with or without sureties.

**67C.** The Director and every prescribed officer shall be deemed to be a peace officer within the meaning of the Code of Criminal Procedure Act for exercising, for the purposes of this Ordinance, any power conferred on peace officers by that Act.

The Director and prescribed officers to be peace officers. [§ 29, 1 of 1970.]

**67D.** (1) The Director and, subject to the provisions of subsection (2), every prescribed officer shall exercise the powers that may be exercised in respect of cognizable offences by an inquirer, or by an officer in charge of a police station, under the provisions of Chapter XI of the Code of Criminal Procedure Act.

Power of Director and prescribed officers to hold inquiries. [§ 29, 1 of 1970.]

\* See sections 2 and 11 of the Maritime Zones Law.

(2) The powers referred to in subsection (1) shall not be exercised by a prescribed officer in any place which is outside the limits of the area to which he is appointed.

(3) An inquiry under this section shall be held at or in the neighbourhood of the place in which the offence is alleged to have been committed.

Arrests, searches, &c., how to be made, [§ 29, 1 of 1970.]

**67E.** The provisions of the Code of Criminal Procedure Act relating to arrests, searches, search warrants, the release of persons arrested on bail or on the execution of bonds, the production of persons arrested, and the investigation of offences shall be held to be applicable to all action taken in these respects under this Ordinance.

Ejection from State land. [§ 29, 1 of 1970.]

**67F.** Where any person convicted of any offence under section 6 or section -7 in respect of any State land continues to be in unlawful or unauthorized possession or occupation of such State land or any portion thereof, the district director of the district or area in which such State land is situated may issue a notice on such person forthwith to vacate the land of which he is in unlawful or unauthorized possession or occupation and if he fails to do so he may be ejected from the land under the procedure prescribed by sections 120 to 127 (both inclusive) of the Land Development Ordinance as if—

- (a) that land were a holding under that Ordinance,
- (b) the notice issued under this section were a notice under section 119 of that Ordinance,
- (c) the reference in section 124\* of that Ordinance to the person whose grant has been cancelled were a reference to the person to whom a notice under this section has been issued, and
- (d) the district director of the district or area in which that land is situate were the Government Agent exercising, discharging or performing in respect of a holding

any power, duty or function imposed upon or assigned to the Government Agent under that Ordinance.

APPOINTMENT OF OFFICERS AND ADVISORY COMMITTEE

**68.** (1) For the purposes of this Ordinance, there may be appointed— Appointment of officers.

- (a) a person by name or by office to be or to act as Director, or as Deputy Director, Wildlife Conservation, [§ 30. 1 of 1970.]
- (b) a person by name or by office to be or to act as district director, Wildlife Conservation, for any specified district or area; [§ 30. 1 of 1970.]
- (c) a person to act as an honorary district director. Wildlife Conservation, for any specified district or area; [§ 43. 44 of 1964.]
- (d) such other officers and servants as may, from time to time, be required. [§ 30, 1 of 1970.]

(2) In the exercise of their powers and in the discharge of their duties under this Ordinance all persons, officers and servants appointed under this section shall be subject to the general direction and control of the Minister.

(3) All persons, officers and servants appointed under this section shall be deemed to be public servants within the meaning of the Penal Code.

**69.** The Director may with the approval of the Minister delegate to any district director or to any honorary district director in respect of his district or area any power or duty conferred or imposed on the Director by this Ordinance or by any regulation made thereunder. Delegation of powers of Director. [§ 44, 44 of 1964.] [§ 37, 1 of 1970.]

**70.** (1) The Minister may appoint an advisory committee which shall consist of the Director as chairman and of eleven other persons, for the purpose of advising the Director and making recommendations to the Minister on all matters and questions relating to the fauna and flora of Sri Lanka. Advisory committee. [§ 37, 1 of 1970.]

\* Section 124 of the Land Development Ordinance has been repealed by Act No. 16 of 1969.

(2) Meetings of the advisory committee shall be held at least twice in every year.

(3) The advisory committee shall be entitled to determine its own procedure in any matter of procedure for which no provision is prescribed.

GENERAL REGULATIONS

General regulations.

**71.** (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 circumstances in which and the conditions subject to which the Director may exercise the powers conferred on him by section 55 ,
- (b) the circumstances in which and the conditions subject to which any licence or permit may be issued free of charge;
- (c) the fee to be paid for any licence or permit issued under this Ordinance or under any regulation, and the mode and manner of payment or recovery of any such fee ;
- (d) the prohibition or regulation of the import, manufacture, sale, possession or use of any head-gear so constructed as to be capable of being fitted with any lamp or artificial light or of any lamp constructed so as to be capable of being fitted into any head-gear ;
- (e) the period of office of the members of the advisory committee appointed under section 70, the manner in which meetings of that committee shall be convened, the procedure to be followed at such meetings, and the manner in which the recommendations of that committee shall be made;
- (f) the declaration of any period other than that specified in section 72 as a

close season in respect of any particular species of bird or beast either throughout the whole of Sri Lanka or in any specified area ;

(g) the establishment and administration of the " Wildlife Preservation Fund " and the purposes for which that Fund may be employed ; and

(h) all matters for which regulations are required or authori/ed to be made under this Ordinance, all matters stated or required by this Ordinance to be prescribed, and ail other matters incidental to or connected with such matters.

(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 il were herein enacted.

INTERPRETATION AND SAVINGS

**72.** (1) In this Ordinance, unless the context otherwise requires—

" close season " means the period from the thirtieth day of April to the thirty-first day of October in each year, or such other period as may be prescribed in respect of any particular species of bird or beast either throughout the whole of Sri Lanka or in any specified area;

" cultivated land " includes land used for chena cultivation when a crop is growing on such land ;

"Director" means the person appointed to be or to act as the Director Wildlife Conservation, for the purposes of this Ordinance, and includes the Deputy Director, Wildlife

[§ 37. 1 of 1970.]

[§ 45, 44 of 1964.]

[§ 45. 44 of 1964.]

Interpretation.

[§ 31. 1 of 1970.]

# FAUNA AND FLORA PROTECTION

[Cap.567

Conservation, appointed for such purposes;

"prescribed" means prescribed by this Ordinance or by regulation ;

[§31, 1 of 1970.]

"district director" means a district director. Wildlife Conservation, appointed for the purposes of this Ordinance;

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

"Intermediate Zone" means an Intermediate Zone declared under section 2(1);

"Sanctuary" means a Sanctuary constituted by Order under section 2(2);

"gun" has the same meaning as in the Firearms Ordinance;

"Sri Lanka" includes the territorial waters of Sri Lanka ;

[§31, 1 of 1970.]

"honorary district director" means an honorary district director. Wildlife Conservation, appointed for the purposes of this Ordinance;

"State land" means all land to which the State is lawfully entitled together with all rights, interests and privileges attached or appertaining thereto;

[§ 46. 44 of 1964.]

"Jungle Corridor" means a Jungle Corridor for elephants constituted by Order under section 2 (1);

"Strict Natural Reserve" means a Strict Natural Reserve constituted by Order under section 2(1);

"local authority" includes any Municipality, Urban Council, Town Council, or Village Council and includes the inhabitants\* of a village area constituted under the Village Councils Ordinance;

"territorial waters" means the part of the sea within a distance of three nautical miles from any point of the coast of Sri Lanka measured from the low-water mark of ordinary springtides. [§31, 1 of 1970.]

"National Park" means a National Park constituted by Order under section 2(1);

(2) Any reference in this Ordinance or in any regulation or in any other written law to a Schedule of this Ordinance shall be deemed to be a reference to the Schedule for the time being in force.

"National Reserve" means a National Reserve constituted by Order under section 2(1);

73. Every licence issued by any authority under any written law repealed by Ordinance No. 2 of 1937 for the doing of any act for which a licence is required by this Ordinance shall be valid and continue in force until the expiration of the period for which it was granted. Savings— Licences.

[§ 46, 44 of 1964.]

"Nature Reserve" means a Nature Reserve constituted by Order under section 2(1);

"offence" means an offence under this Ordinance or under any regulation ;

[§ 46, 44 of 1964.]

"open season" means that portion of the year that is not included in the close season;

74. All such proclamations, notifications and orders issued, and all such regulations and rules made, and all such concessions, permissions and authorizations given, and all such royalties fixed under any written law repealed by Ordinance No. 2 of 1937 as are in force at the date on which this Ordinance comes into operation shall, so far as they relate to matters for which provision may in any manner be made under this Savings Proclamations, notifications, rules, &c.

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

\* See Section 3 (now repealed) of Ordinance No, 9 of 1924.

+ See also Section 2 and 1 i of the Maritime Zones Law.

Ordinance and so far as they are not inconsistent with the provisions of this Ordinance, continue in force unless or until provision in regard to such matters is made in accordance with the provisions of this Ordinance.

in any National Reserve or Sanctuary as from the date on which such National Reserve or Sanctuary is duly constituted under section 2 ; but, subject as aforesaid, the provisions of that Ordinance shall continue to be in operation in any area outside a National Reserve or a Sanctuary.

Operation of Fisheries Ordinance.

**75.** The provisions of the Fisheries Ordinance shall cease to be in operation

[§ 47, 44 of 1964.]

SCHEDULE I

List of Birds that are not protected

[Section 30.]

English Name	Scientific Name	Sinhalese Name	Tamil Name
Black Crow	Corvus macrorhynchos culminatus	Kaka-Kaputa	Andang Kakam
Ceylon House-Crow	Corvus splendens protegatus	Kaputa, Kolomba Kaka	Oor-Kakam
Ceylon House-Sparrow	Passer domesticus soror	Ge Kurulla	Adaikalan-Kuruvi, Oor Kuruvi
Spotted Munia	Uroloncha punctulata lineoventer	Wee-Kurulla	Nellu Kuruvi
White-Backed Munia	Uroloncha striata striata	Wee-Kurulla	Nellu-Kuruvi, Tinayan, Tinai-Kuruvi
Ceylon Hill-Munia	Uroloncha kelaarti kelaarti	Wee-Kurulla	Nellu-Kuruvi
The Striate Weaver-Bird	Ploceus manyar flaviceps	Wadu-Kurulla	Thukanan-Kuruvi, Manjal-Kuruvi Manjal
Baya or Common Weaver-Bird	Ploceus philippinus philippinus	Wadu-Kurulla or Goiyan Kurulla	Thukanan-Kuruvi, Kuruvi
Rose Ringed Parakeet	Psittacula krameri manillensis	Ranna-Girawa	Payatham-Kili
Purple Coot or Gallinule	Porphyrio poliocephalus poliocephalus	Kittala, Kitta	Kanan-Koli
The Indian Darter or Snake Bird	Anhinga melanogaster	Hansya	Pambu-Tara, Nedung-Kilathy, Nedung Kaluththan
Pigmy Cormorant	Phalacrocorax niger	Diya-Kawa	Nir-Kakam
Indian Cormorant	Phalacrocorax niger	Diya-Kawa	Nir-Kakam
Indian Shag	Phalacrocorax fuscicollis	Diya-Kawa	Nir-Kakam

[§ 32, 1 of 1970.]

[§ 32, 1 of 1970.]

[§ 47, 44 of 1964.]

SCHEDULE II

List of Birds that are not protected during the Open Season only and may be shot without a Licence.

[Section 30.]

English Name	Scientific Name	Sinhalese Name	Tamil Name
Ceylon Spotted Dove	<i>Streptopelia chinensis ceylonensis</i>	Alu-Kobeyiya	Mani-Pura, Umi-Pura, Pulli-Pura
Indian Ring Dove	<i>Streptopelia decaocto decaocto</i>	Maha-Kobeyiya	Kalli-Pura, Sambal-Pura
Blue Rock-Pigeon	<i>Columba livia intermedia</i>	Gai-Pareyya	Mada-Pura, Malai Pura
Bronze-Winged or Emerald Dove	<i>Chalcophaps indica robinsoni</i>	Nil-Kobeyiya	Thamil-Pura
Ceylon Orange Breasted Green Pigeon	<i>Treron bicincta leggei</i>	Bata-Goya, Sipaduwa	Pachchai-Pura
Pompadour, Green Pigeon	<i>Treron pompadora pompadora</i>	Bata-Goya, Sipaduwa	Pachchai-Pura
Ceylon Southern Green Pigeon	<i>Treron phoenicoptera phillipsi</i>	Bata-Goya, Sipaduwa	Pachchai-Pura
Common or Fantail-Snipe	<i>Capella gallinago gallinago</i>	Keswatuwa	Ullan Kuruvi
Pintail Snipe	<i>Capella stenura</i>	Keswatuwa	Ullan-Kuruvi
Wood Cock	<i>Scolopax rusticola</i>	Maha-Keswatuwa	Periya Ullan-Kuruvi
Jack Snipe	<i>Lumnocryptes minimus</i>	(No Sinhalese or Tamil Names)	
Wood Sandpiper	<i>Pringa gareola</i>	Sili-Watuwa	Kottan
Curlew	<i>Numenius arquata orientalis</i>	Maha Watuwa	Kumandy or Mussal-Kinandu or Muyal Kinandy
Whimbrel	<i>Numenius phaeopus phaeopus</i>	Maha Watuwa	Kuthirai-Malai-Kottan
Eastern Golden Plover	<i>Pluvialis dominica fulva</i>	Oleyiya, Rana-Watuwa	Kottan
Grey Plover	<i>Squatarola squatarola</i>	Oleyiya	Kottan
Painted Snipe	<i>Rostratula benghalensis benghalensis</i>	Ulu-Keswatuwa, Raja-Watuwa	Ullan-Kuruvi
Watercock	<i>Gallix cinerea</i>	Wil-Kukkula	Tannir-Kili
Ceylon Bustard-Quail	<i>Turnix susciator leggei</i>	Bola-Watuwa	Kadai
Blue-Breasted Quail	<i>Excalfactoria chinensis chinensis</i>	Pandara-Watuwa, Wil-Watuwa	Kadai
Cotton Teal	<i>Nettion coromandelianus coromandelianus</i>	Mal-Seruwa	Raja-Tara or Kuluppai
Pintail	<i>Anas acuta acuta</i>	Seruwa	Tara
Garganey	<i>Anas querquedula</i>	Seruwa	Tara
European Teal	<i>Anas crecca crecca</i>	Seruwa	Tara
Whistling Teal	<i>Dendrocygna Javanica</i>	Seruwa, Thumba-Seruwa	Chilli-Tara

[§ 33, 1 of 1970.]

[§ 33, 1 of 1970.]

SCHEDULE III

[Section 31.]  
 List of Wild Animals (including Reptiles but not including Birds) absolutely protected during both the  
 Close and Open Seasons

[§ 47, 44 of  
 1964.]

[§ 34, 1 of  
 1970.]

English Name	Scientific Name	Sinhalese Name	Tamil Name
Bear Monkey or Hill Wanduroo	<i>Pithecus vetulus monticola</i>	Maha Wandura	Periya Mundi
Grey Flying-Squirrel	<i>Petaurista philippensis lanka</i>	Hambawa or Hangu	Paravai-Anil
Small Ceylon Flying-Squirrel	<i>Pteromys layardi</i>	Hambawa	Paravai-Anil
Highland Giant-Squirrel	<i>Ratufa macroura macroura</i>	Dandolena	Malai-Anil
Hog Deer	<i>Hylephus porcinus</i>	Wil-Muwa or Gona-Muwa	Manu
Water-Lizard or Water-Monitor	<i>Varanus salvator</i>	Kabara Goya	Kabaragoyen
Dugong	<i>Dugong dugon</i>	Mudu Ura	Kadal Pandi
Fishing Cat	<i>Felis viverrina</i>	Koladiviya or Handundiviya	Koddipuli
Rusty Spotted cat	<i>Felis rubiginosa</i>	Wal Balala or Koladiviya	Kaddupoonai
Delft Island Pony	<i>Equus caballus</i>	Kebellaya	Alangu
Indian Pangolin	<i>Manis crassicaudata</i>	Dhara Kesbewa	Dhoni Amai
Leathery Turtle	<i>Demochelys coriacea</i>	Una Hapuluwa	Thevangu
Slender Loris	<i>Loris tardigradus</i>	Hik miya or Kunu miya	Mungi 'elli
Kelaart's Long clawed Shrew	<i>Feroculus feroculus</i>	Podi Hik miya or podi Kunu miya	Mungi 'elli Kutti or Sinna Mungi 'elli
Ceylon Pigmy Shrew	<i>Suncus fellowes-gordoni</i>	Kunu miya	Mungi 'elli
Ceylon Jungle Shrew	<i>Suncus zeylanicus</i>	Hik miya or Kunu miya	Mungi 'elli
Long-tailed Shrew	<i>Crocidura miya</i>	Podi Hik miya or Podi Kunu miya	Sinna Mungi 'elli Mungi 'elli Kutti
Horsfield's Shrew	<i>Crocidura horsfieldi</i>	Hik miya or Kunu miya	Mungi 'elli
Pearson's Shrew	<i>Solisorex pearsoni</i>	Wawla	Vava
Ceylon Fruit Bat	<i>Rousettus seminuudus</i>	Podi Wawula	Sinna vava
Ceylon Tube-nosed Bat	<i>Murina eilceneae</i>		



[S 47, 44 of 1964.]

SCHEDULE III (contd.)

List of Wild Animals (including Reptiles but not including Birds) absolutely protected during both the Close and Open Seasons

[Section 31.]

English Name	Scientific Name	Sinhalese Name	Tamil Name
Malpas's Bat	Kerivoula malpasi	Podi Wawula	Sinna vava
Ceylon Gerbil or Antelope-ra	Tatera ceylonica	Wel miya	Vel-elli
Ceylon Mole-rat	Gunomys gracilis	Wel miya	Kurumb 'elli or Viel 'elli or Nell 'elli or Agillarne
Ceylon Spiny-mouse	Leggadilla fernandoni	Miya or Podi miya	Sund 'elli
Highland Coelomys or Spiny-rat	Coelomys mayori	Miya or Kelle miya	Yelli or Kart 'elli
Bicoloured Coelomys or Spiny Rat	Coelomys bicolor	Miya or Kelle miya	Yelli or Kart 'elli
Nillu Rat	Rattus montanus	Miya or Kelle miya	Yelli or Kart 'elli
Ceylon Palm-civet	Paradoxurus zeylonensis	Kalawedda	Marum Nai
Olive-backed logger-head	Lepidochelys olivacea	Mada kasbawa or Eramadhu Kasbava or Parai kasbava or Batu kasbava	Kanga matteyan amai or Sith amai
Giant brown-red logger-head	Caretta caretta gigas	Olugedi kasbava or Kannadi kasbava	Perunthale amai or Nai amai
Hawksbill turtle or Caret or Shell turtle	Eretmochelys imbricata	Pothu kasbava or Leli kasbava or Pana kasbava	Alunk amai
Green turtle	Chelonia mydas	Gal kasbava or Mas kasbava or Vali kasbava	Perr amai or Pal amai
Starred tortoise or star tortoise	Testudo (Geocheilone) elegans	Mayvara ibba or Hoomam ibba or Vairan ibba or Thāruka ibba	Katu amai or Katu petti amai

[§ 47, 44 of 1964.]

SCHEDULE IV

List of Animals which shall not be shot except on a Special Licence at any Time of the Year

[Section 31.]

English Name	Scientific Name	Sinhalese Name	Tamil Name	No. allowed
Leopard	<i>Panthera pardus fusca</i>	Kotiya (General term) Diviya (Male) Dividena (Female) Walaha	} Pulee Karadi	1
Ceylon Bear	<i>Melursus Ursinus</i>	Hale Kimbula, Ala Kimbula	Kulathu Muthale	1
Ceylon Swamp-Crocodile	<i>Crocodylus palustris kimbula</i>	Pitta Gatteya, Gatte	Chem-mookan Muthalai	1
Marsh-Crocodile or Estuarine or Sea-Crocodile	<i>Crocodylus porosus Schneider</i>	Kimbula, Gorekaya		1

[§ 35, 1 of 1970.]

SCHEDULE V

PROTECTED PLANTS

[Section 42.]

<i>English Name</i>	<i>Botanical Name</i>	<i>Sinhalese Name</i>	<i>Tamil Name</i>
Wesak Orchid or May Orchid	Dendrobium Macarthaiae Thw.	Wesak mala	—
Baobab Tree or Judas bag, or Monkeybread-Tree	Adansonia digitata L.	—	Papparappuli or Perukka or Anaippuli
Fox-tail Orchid or Ballicaloa Orchid	Rhynchostyles retusa Bl.	—	—
Spagnum moss Bogmoss	Sphagnum zeylanicam Mitt.	—	—
Primrose Orchid	Dendrobium Heterocarpum	—	—
Daffodil Orchid	Ipea Speciosa	—	—
Anuradhapura Orchid	Vanda Tessellata (Roxburgh!!)	Rat-tha or Rassana	—
—	Vanda Spathulata	—	—
—	Cleistanthus collinus	Madara	Wudacha-maram

[§47,44 of 1964.]

SCHEDULE VI

PROTECTED TREES

[Section 43.]

1. The tree popularly known as Knox's Tree, situated at Muthur in Koddiyar pattu in the administrative district of Trincomalee:—

English Name	.. Tamarind
Botanical Name	.. Tamarindus indica
Sinhalese Name	.. Siyambala
Tamil Name	.. Puli

\*3. The tree popularly known as Orubendi-Siyambalagaha near about the 5 <sup>1</sup>/<sub>4</sub> mile-post from the Elahera anicut on the Elahera Canal situated in the Matale District of the Central Province :—

English Name	.. Tamarind
Botanical Name	.. Tamarindus indica
Sinhalese Name	.. Siyambala
Tamil Name	.. Puli

\* Item 2 omitted by Act No. I of 1970.

**CHAPTER 214**

**FOOD CONTROL**

Acts  
Nos. 25 of 1950,  
30 of 1952,  
42 of 1952,  
51 of 1958,  
32 of 1970,  
42 of 1971.

AN ACT TO MAKE PROVISION FOR THE REGULATION AND CONTROL OF THE DISTRIBUTION, TRANSPORT AND SUPPLY OF FOOD.

[9th December, 1950.]

Short title. **1.** This Act may be cited as the Food Control Act. the production, stocks or supply of any food or article of food ; or

Appointment of officers and servants. **2.** (1) There may be appointed, by name or by office, for the purposes of this Act, a Food Controller and such number of Deputy and Assistant Food Controllers and other officers as may be necessary. (b) any unreasonable diminution or increase in the number of cattle available for slaughter,

(2) The act of appointment of any Deputy or Assistant Food Controller shall specify whether he is appointed as such for the whole of Sri Lanka or for any part thereof. the Minister may by Order published in the Gazette—

(3) There may also be appointed such clerical and minor staff as may be necessary to assist the aforesaid officers in the administration of this Act. (i) prohibit or regulate the transport or removal of any food, article of food or cattle to or from any place or area in Sri Lanka;

Powers and duties of officers. **3.** (1) Every Deputy or Assistant Food Controller shall, in the exercise of his powers, the performance of his duties or the discharge of his functions, be subject to the general direction and control of the Food Controller. (ii) regulate and control the importation into Sri Lanka of any food, article of food or cattle by the introduction of a system of licences or otherwise;

(2) Every Deputy or Assistant Food Controller may, subject to the general direction and control of the Food Controller, within the area for which he is appointed, exercise, perform or discharge all or any of the powers, duties or functions vested in, imposed upon, or assigned to, the Food Controller by or under this Act. (iii) provide for the allocation, distribution or withdrawal of import licences for the purpose of the regulation or control referred to in paragraph (ii);

Prohibition or regulation of transport or removal of food or cattle. **4.** (1) Where the Minister is satisfied that in any part of Sri Lanka there is or is likely to be— (iv) regulate and control the removal of any food, article of food or cattle from the customs premises or from any warehouse or store within such premises;

(a) a shortage or unreasonable increase in (v) assume control of any granary, warehouse or store and prohibit, control or regulate the transport thereto or removal therefrom of any food, article of food or cattle .

**FOOD CONTROL**

(vi) provide for the allocation of supplies of food, articles of food or cattle to distributors, merchants or dealers, for the organization and administration of a system of rationing such supplies, for the transport and conveyance of such supplies and for the requisitioning of vehicles and animals for the purpose of such transport or conveyance.

(2) (a) Where the Minister is of opinion that it is expedient so to do, he may, by Order published in the Gazette—

(i) prohibit or restrict the supply, for the purposes of consumption, of any specified food or article of food, and

(ii) regulate or control the supply of food or articles of food for consumption in the form of meals.

(b) Every Order under this subsection shall, save as may be otherwise therein provided, be applicable to any supply by way of sale. and may, in addition, be made applicable to any supply (otherwise than by way of sale) on such occasions or in such circumstances as may be specified in the Order:

Provided, however, that any such Order prohibiting or restricting the supply of any specified food or article of food may provide for the exemption, from such prohibition or restriction, of such supply by persons who, prior to the date of the coming into operation of the Order, carried on business as suppliers of such food or article of food.

(c) Any person who consumes any food or article of food which is supplied in contravention of any Order under this subsection shall himself be deemed to have acted in contravention of the Order.

(3) Every Order shall come into operation on the date of its publication in the Gazette, and shall, subject to the provisions of subsections (5) and (6) (e) continue in operation for a period of one year commencing from that date;

[§2.32 of 1970-]

Provided, however, that in any case where an Order is made under subsection (1) (v) in respect of any granary, warehouse or store, the Minister may by writing under his hand authorize the Food Controller or any Deputy Food Controller, pending the publication of the Order in the Gazette, to enter such granary, warehouse or store, and to take such steps as may be necessary to prevent or regulate the removal therefrom of any food, article of food or cattle; and any act done by the Food Controller, or by a Deputy Food Controller, or by any Assistant Food Controller, acting on behalf of the Food Controller, in pursuance of any such written authority shall be as valid and effectual as if the Order has been in operation at the time such authority was given.

(4) Every Order shall, as soon as may be after it has come into operation, be brought before Parliament for approval.

(5) Every Order which Parliament refuses to approve shall be deemed to be rescinded, but without prejudice to the validity of anything previously done or suffered to be done thereunder. The date on which an Order shall be deemed to be rescinded shall be the date on which Parliament refuses to approve the Order, and such date shall be notified in the Gazette.

(6) (a) The Minister may at any time by Order published in the Gazette (such Order being hereinafter referred to as an "amending Order") vary any Order previously made under subsection (1). Every amending Order shall come into operation on the date of its publication in the Gazette.

(b) An Order made under subsection (1) which is varied by an amending Order shall continue in operation, as so varied, for the period during which it would have been in operation if it had not been so varied, and no longer.

(c) Every amending Order shall be brought before Parliament for approval:

Provided, however, that where an Order made under subsection (1) is varied by one or more amending Orders before it is approved by Parliament under subsection (4), the Order, when it is brought before Parliament for approval under that subsection, shall have incorporated therein all variations effected by such amending Order or Orders, and it shall not be necessary in any such case to bring any such amending Order separately before Parliament.

(d) The refusal of Parliament to approve any amending Order which is brought before Parliament for approval shall be deemed to be a rescission of that amending Order, and the Order made under subsection (1) shall, from the date of such rescission, continue in operation as though that amending Order had not been made.

(e) The Minister may at any time rescind any Order previously made under subsection (1). Notification of the rescission of any such Order shall be published in the Gazette and such Order shall be deemed to be rescinded upon the date of such publication.

(7) Every Order shall, when approved by Parliament, be as valid and effectual as if it were herein enacted.

(8) Every notification required to be published in the Gazette under this section shall be published under the hand of the Minister.

(9) The provisions of any Order made under this section shall, notwithstanding that they are inconsistent with or in conflict with the provisions of any other written law, prevail over such other written law for the period during which the Order is in force.

5. Where the Minister is of opinion that it is necessary to supplement or to conserve the supply of any food or article of food (such food or article of food being hereinafter referred to as the first-mentioned article ") for the rationing of the supplies of which an Order under section 4 (1) (vi) of this Act has been made, or that it is necessary to prevent the waste of any other kind of food or article of food which he considers an adequate substitute for the first-mentioned article, he may by Order published in the Gazette declare such other kind of food or article of food to be a substitute for the first-mentioned article; and the provisions of this Act and the regulations made or deemed to be made thereunder relating to the first-mentioned article shall *mutatis mutandis* apply to such other kind of food or article of food.

(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) any matter for which provision may be made by an Order issued under section 4;
- (b) the collection of information necessary for the purposes of this Act or for the enforcement of any Order made thereunder, and the marking of premises with letters and marks for the purpose of facilitating the collection of such information;
- (c) the returns to be made for the purposes of this Act, the forms of such returns and the manner of the authentication thereof;
- (d) the inspection and search of any land or premises for the purposes of this Act;
- (e) the stoppage, by the erection of barriers or by the giving of orders, directions or signals, of any vehicle

Declaration of a substitute for food or for an article of food that has been rationed, and the application of the provisions of this Act and the regulations thereunder to such substitute.

Regulations.

used or reasonably suspected to be used for the conveyance or transport of any food or article of food or cattle;

- (f) the inspection and search of such vehicle;
- (g) the surrender of any books, coupons or other documents issued for the purposes of this Act;
- (h) the prohibition of the issue of any railway, steamship or aircraft ticket without the surrender of such books, coupons or other documents;
- (i) the compulsory purchase, seizure, sequestration and disposal of any food or article of food or cattle ;
- (j) the disposal of any food or article of food or cattle forfeited under this Act;
- (k) the manner of serving notices required to be issued for the purposes of this Act;
- (l) the obligations and duties of distributors, merchants or dealers participating in any system of rationing and the payment by them of compensation for deficiencies of stock in their charge; and
- (m) any other matters connected with, or incidental to, any of the matters hereinbefore mentioned.

(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.

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.

Application of section 7 of the Interpretation Ordinance.

8. (1) The Food Controller may, if he is satisfied that any distributor, merchant or dealer has contravened the provisions of any Order or regulation made or deemed to be made under this Act, or if he considers it expedient so to do in the interests of the public, revoke any authorization or directions, relating to the sale or supply of any food, article of food or cattle, issued to such distributor, merchant or dealer.

Revocation of authorizations issued to distributors, merchants, or dealers, &c.

(2) In any case where it would be lawful for the Food Controller in accordance with the provisions of subsection (1) to revoke any authorization or directions, he may, on an application made by the distributor, merchant or dealer, as the case may be, in lieu of such revocation, order such distributor, merchant or dealer to pay a penalty of an amount not exceeding five thousand rupees-

(3) The amount of any penalty shall, when paid, be credited to the Consolidated Fund.

(4) The provisions of this section shall not affect or prejudice the institution or maintenance in any case of a prosecution for any offence under this Act.

Offences and penalties.

9. (1) Every person, appointed for the purposes of this Act, who—

- (a) without sufficient cause, refuses or neglects to act as such or to use reasonable diligence and care in performing any duty imposed upon him by this Act or under any Order or regulation made or deemed to be made under the Act; or
- (b) wilfully puts any offensive or improper question or knowingly falsifies any return,

shall be guilty of an offence.

(2) Every person, who—

- (a) refuses to answer to the best of his knowledge and belief any question asked of him by an officer appointed for the purposes of this Act which such person is required to answer under any Order or regulation made or deemed to be made under this Act, or wilfully makes a false answer thereto; or
- (b) makes, signs or delivers or causes to be made, signed or delivered, any wilfully false or incorrect return or any return containing any statement which is to his knowledge false or incorrect; or
- (c) refuses to allow an officer appointed for the purposes of this Act such reasonable access to any premises as he may be required to allow under such Order or regulation; or
- (d) before the expiry of a period of eight weeks from the date on which any mark or letter was marked on such premises under such Order or regulation, alters, obliterates or removes such mark or letter,

shall be guilty of an offence.

(3) Every person who acts in contravention of any Order or regulation made or deemed to be made under this Act shall be guilty of an offence.

(3A) Every person who attempts to commit, or does any act preparatory to the commission of, any offence under subsection (3), shall be guilty of an offence. [§2.51of 1958-]

(4) Every person who is guilty of an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to a fine not less than five hundred rupees and not exceeding five thousand rupees or to imprisonment of either description for a period not less than six months and not exceeding two years or to both such fine and imprisonment; and the Magistrate may order the forfeiture of any food, article of food or cattle, in respect of which the offence was committed. [§2,42 of 1971] [§2,42 of 1971.]

(5) Where any person who is employed by any other person (such other person being hereinafter referred to as the "employer") to sell any food, article of food or cattle 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 any offence under subsection (3) or subsection (3A), then the employer or where the employer is out of Sri Lanka, the person for the time being acting as manager of 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. [§2,51 of 1958.]

(6) 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 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.



(7) Notwithstanding anything to the contrary 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.

(8) The Food Controller and every Deputy and Assistant Food 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.

Protection of officers.

**10.** No civil action or criminal prosecution shall be instituted or maintained against the Food Controller or any Deputy or Assistant Food 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 or deemed to be made thereunder.

Application of Act.

**11.** (1) The provisions of this Act or of any Order or regulation made or deemed to be made thereunder shall have no application to any food or article of food or cattle kept, transported or removed by or on

behalf of the naval, military, air force or civil authorities for the use of the armed forces or the civil administration.

(2) Nothing in this Act shall affect the provisions of the Dried Meat Ordinance.

**12.** In this Act, unless the context otherwise requires—

Interpretation-

" appointed date " means the 9th day of December, 1950;

" article of food " means any commodity, substance or thing which has been cooked, prepared, treated, preserved or manufactured as food for man or fodder for cattle;

" cattle " means bulls, cows, sheep, goats, deer or buffaloes, and includes any other animals ordinarily killed or slaughtered for providing food for man; and

"food " means any commodity used for food or drink by man other than drugs or water or any substance which ordinarily enters into or is used in the composition or preparation of human food, and includes the flesh of cattle and fodder for cattle.

**CHAPTER 215**

**FOOD CONTROL (POSSESSION)**

*Acts*  
Nos. 14 of 1956,  
5 of 1957.

AN ACT TO CONTROL THE POSSESSION OF CERTAIN ARTICLES OF FOOD.

[3rd February, 1956.]

Short title.

**1.** This Act may be cited as the Control of the Possession of Food Act.

Control of the possession of scheduled articles of food by producers.

**2.** On or after the appointed date no producer of any scheduled article of food in any area shall, except under the authority of a permit issued by the Food Controller, have in his possession or under his control in that area a quantity of that article in excess of the maximum quantity of that article allowed to a producer of that article in that area.

Control of the possession of scheduled articles of food by wholesale dealers.

**3.** On or after the appointed date no wholesale dealer in any area shall, except under the authority of a permit issued by the Food Controller, have in his possession or under his control in that area a quantity of a scheduled article of food in excess of the maximum quantity of that article allowed to a wholesale dealer in that area-

Control of the possession of scheduled articles of food by retail dealers.

**4.** On or after the appointed date no retail dealer in any area shall, except under the authority of a permit issued by the Food Controller, have in his possession or under his control in that area a quantity of a scheduled article of food in excess of the maximum quantity of that article allowed to a retail dealer in that area.

Control of the possession of scheduled articles of food by consumers.

**5.** (1) On or after the appointed date no person in any area shall, except under the authority of a permit issued by the Food Controller, have in his possession or under his control in that area, otherwise than as a producer, wholesale dealer or retail dealer, a quantity of a scheduled article of food in excess of the maximum quantity of that article allowed to a consumer in that area.

(2) A person who is the chief occupant of a house in any area shall not be deemed to contravene the provisions of subsection (1) by reason only of the fact that there is in

that house a quantity of a scheduled article of food which exceeds the quantity which he may lawfully possess as a consumer in that area, if the quantity of that article in that house does not exceed the aggregate of the quantities of that article which all the occupants of that house may lawfully possess as consumers in that area.

**6.** The Minister may by Order published in the Gazette determine the quantity to be the maximum quantity for the purpose of each of sections 2, 3, 4 and 5. Such quantity may be either a definite amount, or an amount determined according to a method of calculation, specified in such Order.

**7.** (1) The Food Controller may, on an application made by any person in the prescribed form, issue a permit to that person authorizing him to possess or have under his control in the specified area the specified quantity of any specified scheduled article of food in excess of the quantity of that article which that person without the permit may lawfully possess or have under his control in that area.

(2) In subsection (1), "specified" means specified in the permit issued under that subsection.

(3) The decision of the Food Controller refusing to issue a permit under subsection (1) shall be final and conclusive and shall not be called in question in a court of law.

**8.** There may be appointed such number of officers and servants as may be necessary to carry out the provisions of this Act.

**9.** (1) The Minister may make regulations for the purpose of carrying out or giving effect to the 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 all or any of the following matters:—

- (a) all matters required by this Act to be prescribed;
- (b) the collection of information necessary for the purposes of this Act;
- (c) the returns to be made, and the registers and other records to be maintained for the purposes of this Act, and the forms of such returns, registers and records;
- (d) the inspection of registers and records maintained for the purposes of this Act; and
- (e) the inspection and search of any place or premises used or reasonably suspected to be used for keeping any scheduled article of food.

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

(e) does not allow the inspection or search of any place or premises by an officer who is authorized by any regulation to inspect and search such place or premises, or.

(f) does not allow the inspection of any register or record by an officer who is authorized by any regulation to inspect such register or record,

shall be guilty of an offence under this Act.

**11.** (I) Every producer who is guilty of an offence under this Act, other than the offence of contravening the provisions of section 2, or every dealer who is guilty of an offence under this Act, other than the offence contravening the provisions of section 3 or section 4, shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five thousand rupees or to imprisonment of either description for a period not exceeding one year or to both such fine and imprisonment. Punishment of offences, &c. [§2, 5 of 1957.]

(2) Every person, other than a producer or a dealer, who is guilty of an offence under this Act, other than the offence of contravening the provisions of section 5, 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 period not exceeding six months or to both such fine and imprisonment. [§2,5 of 1957.]

Offences.

**10.** Every person who—

- (a) contravenes the provisions of section 2, section 3, section 4 or section 5, or
- (b) contravenes the provisions of any regulation, or
- (c) refuses to answer any question asked of him by any officer authorized by any regulation to question him, or wilfully makes a false or incorrect answer thereto, or
- (d) makes or causes to be made in any return, register or record which he is required by any regulation to make or maintain, an entry which is to his knowledge false or incorrect in any material particular, or

(2A) Every producer who is guilty of the offence of contravening the provisions of section 2 or every dealer who is guilty of the offence of contravening the provisions of section 3 or section 4 shall, on conviction after summary trial before a Magistrate, be liable to both the fine and the imprisonment specified in subsection (1). [§2,5 of 1957.]

(2B) Every person who is guilty of the offence of contravening the provisions of section 5 shall, on conviction after summary trial before a Magistrate, be liable to both the fine and the imprisonment specified in subsection (2). [§2,5 of 1957.]

(3) Where a person is convicted of an offence under this Act in respect of any quantity of a scheduled article of food, the

Magistrate convicting such person may, in addition to any other punishment which he may impose, order the forfeiture of that quantity.

(4) Where the Magistrate orders the forfeiture of any quantity of a scheduled article of food under subsection (3), such quantity shall be disposed of in the prescribed manner.

**12.** Where any offence under this Act 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 such offence; and

(h) if the body of persons is a firm, every partner of that firm shall be deemed to be guilty of such offence ;

Provided, however, that no such director, officer or partner shall 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.

**13.** Notwithstanding anything to the contrary 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.

**14.** The Food Controller and every officer authorized by any regulation to inspect and search any place or premises used or reasonably suspected to be used for keeping any scheduled article of food or to inspect any register or record maintained for the purposes of this Act shall be deemed to be peace officers within the meaning of the Code of Criminal Procedure Act for exercising, for the purposes of this Act, any power conferred on peace officers by that Act.

**15.** The Minister may by Order published in the Gazette amend the Schedule to this Act.

**16.** The provisions of this Act or of any regulation shall have no application to any scheduled article of food in the possession of—

- (a) the armed forces ; or
- (b) the civil administration ; or
- (c) any person who may be expressly exempted from those provisions by Order made by the Minister and published in the Gazette.

**17.** In this Act, unless the context otherwise requires—

" appointed date " means the date fixed by the Minister by Order published in the Gazette ;

" Food Controller " means the person for the time being holding the office of Food Controller and includes any person for the time being holding the office of Deputy Food Controller or Assistant Food Controller;

" regulation" means a regulation made under this Act;

" retail dealer ", in relation to a scheduled article of food, means a person whose chief business in respect of such article is its sale or supply at retail rates to consumers ;

" scheduled article of food" means an article of food specified for the time being in the Schedule to this Act; and

"wholesale dealer", in relation to a scheduled article of food, means a person whose chief business in respect of such article is its sale or supply wholesale to other dealers.

Amendment of the Schedule.

Exemptions.

interpretation.

Offences by corporations and firms.

Offences to be cognizable offences.

The Food Controller and authorized officers to be peace officers-

SCHEDULE

1. Paddy.
2. Rice.
3. Wheat.
4. Wheat Hour.
5. Sugar.

# FUEL CONSERVATION—FIVE DAY WEEK [Cap. 222

## CHAPTER 222

### FUEL CONSERVATION—FIVE DAY WEEK

Act  
No. 11 of 1978.

AN ACT TO PROVIDE FOR SATURDAYS NOT TO BE TREATED AS WORKING DAYS IN GOVERNMENT DEPARTMENTS AND CERTAIN OTHER INSTITUTIONS AND FOR THE REGULATION OF THE HOURS OF WORK IN SUCH DEPARTMENTS AND INSTITUTIONS. AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[17th February. 1977]

Short title and  
date of  
operation.

1. This Act may be cited as the Fuel Conservation Five Day Week Act, and shall be deemed, for all purposes, to have come into operation on February 17, 1977, (hereinafter referred to as the "relevant date").

Saturdays to  
be non-  
working days.

2. Saturdays shall not be working days in any Government department, public corporation, local authority or trade in which, immediately prior to the relevant date, Saturdays were not or were required not to be working days under any regulation made under section 5 of the Public Security Ordinance or in any other institution or part thereof specified by the Minister by regulation made under this Act, where the Minister considers such regulation necessary or expedient on grounds of national economy or for the better regulation of trade or industry;

Provided that the preceding provisions shall not apply to any institution or part thereof that may be exempted from such provisions by the Minister by regulation made under this Act, where the Minister considers such regulation necessary or expedient on grounds of national economy or for the better regulation of trade or industry.

Hours of work  
to be  
performed  
from Monday  
to Friday.

3. Every worker in an institution in which under this Act, Saturdays are not working days shall on every day from Monday to Friday, commence and cease work at the time he commenced and ceased work immediately prior to the relevant date and shall be remunerated as if he had worked on Saturdays.

4. No worker shall be entitled to the payment of any sum of money in the nature of an overtime payment in respect of the extra hours of work performed by him from Monday to Friday in consequence of Saturday not being a working day, notwithstanding any law, custom, practice or agreement to the contrary.

No overtime  
payment for  
extra work  
performed  
from Monday  
to Friday in  
consequence of  
Saturday not  
being a  
working day.

5. Where a worker in an institution in which under this Act, Saturdays are not working days is required by his employer to work on a Saturday and accordingly does so he shall be entitled to receive and shall be paid a sum of money in the nature of an overtime payment in respect of such work.

Payment of  
overtime for  
work on  
Saturday.

6. Every worker who has been employed by any employer, immediately before the relevant date, in an institution to which the provisions of section 2 apply shall, subject to the provisions of any other written law, continue to be employed on such terms and conditions relating to salary, allowances, and any other payments of money (by whatever name called) which are not less favourable than those which such worker had received immediately before such date.

Payment of  
salary, &c., to  
be not less  
favourable.

7. Every employer in any institution to which the provisions of section 2 apply shall take account of every Saturday in each week, as though every worker employed under him had worked on that day, for the purpose of computing the number of days worked for the grant of annual holidays to such worker in terms of the provisions of any decision of any Wages Board established under the Wages Boards Ordinance-

Every  
employer to  
take account of  
Saturdays for  
the purpose of  
annual  
holidays.

Effect of the provisions of this Act

**8.** The provisions of this Act, other than the provisions of section 6, shall have effect notwithstanding anything in any other law.

Regulations.

**9.** (1) The Minister may make regulations for the purposes for which regulations are required to be made under this Act.

(2) No regulation made under subsection (1) shall have effect until it is published in the Gazette and approved by Parliament.

Offences and penalties.

**10.** (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 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.

(2) Any employer who fails to pay a sum of money required to be paid to a worker of such employer under this Act 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-

(3) On a conviction of an employer for an offence under subsection (2), the court may, in addition to any other sentence, order the employer to pay to such worker, within a period specified in the order, such sum of money as may be found by the court to be due to such worker under the provisions of this Act and if such sum is not so paid such sum may be recovered in the same manner as a fine and paid to such worker.

**11.** When an offence under this Act is committed by a body of persons, whether corporate or unincorporate, 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 shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he, having regard to the nature of his functions and in all the circumstances, exercised all due diligence to prevent the commission of that offence.

Offences by bodies of persons.

**12.** In this Act, unless the context otherwise requires—

" employer ", " trade " and " worker " shall have the same meanings respectively as in the Wages Boards Ordinance ;

" 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 to or similar to the powers, duties and functions exercised, performed and discharged by any such Council ;

" 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.

\* Repealed and replaced by the Companies Act, No. 17 of 1982 — See the Supplement to the Revised Edition.

**CHAPTER 150**

**FOREIGN EMPLOYMENT AGENCY**

Act  
No. 32 of 1980.

AN ACT TO REGULATE THE CARRYING ON OF THE BUSINESS OF A FOREIGN EMPLOYMENT AGENCY AND THE RECRUITMENT BY PERSONS CARRYING ON THAT BUSINESS, OF PERSONS FOR EMPLOYMENT ABROAD. AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

*[23 rd March. 1981.]*

Short title.

**1.** This Act may be cited as the Foreign Employment Agency Act.

Foreign employment agencies to be licensed,

**2.** (1) A person shall not carry on the business of a foreign employment agency unless he is the holder of a licence issued under this Act and otherwise than in accordance with the terms and conditions of that licence.

(2) A person who, on the appointed date, is carrying on the business of a foreign employment agency on the authority of a licence issued under the Fee-Charging Employment Agencies Act may, notwithstanding anything to the contrary in subsection (1) of this section, continue to carry on that business—

- (a) until the expiration of a period of thirty days after the appointed date; or
- (b) where he has made an application for a licence under this Act, within the period of thirty days after the appointed date, until the determination of that application or where the application is refused until the time for appealing against that refusal has expired, or where an appeal is made against the refusal until the determination of that appeal.

Application of this Act.

**3.** (1) The State shall be entitled through the Commissioner with the assistance of such officers as may be necessary, to carry on the business of a

foreign employment agency and charge for any service rendered by the Commissioner such fees as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(2) The provisions of this Act other than the provisions of subsection (1) shall not apply to and in relation to the State.

(3) No public corporation shall be entitled to carry on the business of a foreign employment agency.

**4.** (1) An application for a licence shall be made to the Commissioner in writing and shall contain the following particulars :—

- (a) the full name and address of the applicant;
- (b) whether the applicant is an individual, firm or a company;
- (c) if the applicant—
  - (i) is an individual, whether he is a citizen of Sri Lanka;
  - (ii) is a firm, whether the partners of the firm are citizens of Sri Lanka;
  - (iii) is a company, whether the majority of the shares in the capital of [he company is held by citizens of Sri Lanka;

(d) if the applicant is a firm or a company, the full name and address of the persons to be in charge of the business;

- (e) whether the applicant, if an individual, is a person of good repute;
- (f) where the applicant is a firm or company, whether the person to be in charge of the business is a person of good repute;
- (g) the address of the premises in which the business is to be carried on together with its floor area and facilities available in those premises.

(2) The particulars contained in paragraph (e) or paragraph (f) of subsection (1) shall be supported by two recent testimonials as to the character and reputation of the applicant or the person to be in charge of the business, as the case may be.

Conditions for grant of licence.

**5.** A licence shall not be granted unless—

- (a) the applicant—
  - (i) if an individual, is a citizen of Sri Lanka;
  - (ii) if a firm, is a firm the partners of which are citizens of Sri Lanka; or
  - (iii) if a company, is a company, the majority of whose shares in the capital of the company is held by citizens of Sri Lanka; and
- (b) the applicant if an individual, or in the case of a firm or company, the person to be in charge of the business, is a person of good repute; and
- (c) the premises in which the business is to be carried on are suitable, having regard to the locality in which the premises are situated, the size of the premises and the facilities in those premises.

6. (1) Before the issue of a licence, the Commissioner shall direct the applicant—

- (a) to enter into an agreement with the Commissioner—
  - (i) to carry on the business in a morally or otherwise irrefragable manner; and
  - (ii) to take all steps as are reasonably possible to ensure that the terms and conditions imposed on an employer abroad under the contract of employment to be entered into by that employer with a person recruited for employment abroad by the foreign employment agency in relation to which the licence is applied for, are observed by that employer;
- (b) to enter into a bond with the Commissioner with two sureties in such sum not less than one hundred thousand rupees, as may be determined by the Commissioner, for the satisfaction of claims which might arise in connexion with the business or any contract of employment referred to in paragraph (a); and
- (c) to pay the prescribed fee for the licence.

Applicant to comply with directions issued by the Commissioner before issue of the licence.

(2) Where the applicant fails to comply with the directions issued under subsection (1), the Commissioner shall refuse to grant him a licence.

**7.** Every licence shall—

- (a) be in the prescribed form; and
- (b) unless it is cancelled earlier, be in force for a period of twelve months from the date of its issue.

Form and duration of licence.

**8.** A licence may be renewed by the Commissioner for a period or periods not exceeding one year at a time on application made to him within one month before the expiry of the licence if—

Renewal of licence-



(a) the Commissioner is satisfied that the licensee has observed the provisions of this Act or any regulation made thereunder or of any agreement or bond entered into by the licensee under this Act or has not been convicted of any offence under this Act or any regulation made thereunder, and

(b) the licensee pays the prescribed fee for the renewal of the licence.

Cancellation of a licence,

**9.** (1) The Commissioner may cancel any licence if he is satisfied that the licensee—

(i) has contravened any of the provisions of this Act or of any regulation made thereunder or of any agreement or bond entered into by the licensee under this Act;

(ii) has been convicted of an offence under this Act or any regulation made thereunder;

(iii) has not complied with any directions issued by the Commissioner to the licensee under section 20 or section 22; or

(iv) has furnished in any application or in any return or in any written information or written explanation sent by the licensee under this Act, any particulars which to the knowledge of the licensee are false or incorrect.

(2) The cancellation of a licence under subsection (1) shall not take effect until the time for appealing against the decision of the Commission has expired or if an appeal has been made until the appeal is disposed of.

**10.** Where the Commissioner decides to refuse the grant or the renewal of a licence or to cancel a licence, he shall communicate to the applicant or the licensee, as the case may be, his decision together with the reasons therefor.

**11.** (1) The applicant or licensee, as the case may be, who is aggrieved by a decision of the Commissioner—

(a) refusing the grant or the renewal of a licence; or

(b) cancelling the licence,

may appeal against the decision to the Secretary to the Ministry within fourteen days of the date on which the decision is communicated to him.

(2) Such Secretary may on any appeal under subsection (1)—

(a) allow the appeal and direct the Commissioner to grant or renew a licence - or

(b) disallow the appeal.

(3) The Commissioner shall comply with any direction issued to him under subsection (2).

**12.** The licensee shall display prominently in the premises on which the business is carried on the licence granted to him.

Display of licence

**13.** A licensee shall not charge, directly or indirectly, for any services rendered by the licensee, a fee in excess of the prescribed fee for those services.

Fee for services not to exceed prescribed fee.

**14.** (1) A licensee shall within thirty days of any change in the particulars stated in his application for a licence, inform the Commissioner in writing of the change.

Licence to inform Commissioner of any change of particulars.

(2) Nothing in subsection (1) shall authorize the licensee to carry on any business otherwise than in accordance with the terms and conditions of the licence.

**15** (1) A licensee shall not issue any advertisement or notice calling for applications from persons for employment abroad or take any other action in connection with or incidental to such employment without the prior approval in writing of the Commissioner.

No action regarding recruitment to be taken without the approval of the Commissioner.

(2) For the purpose of obtaining the approval of the Commissioner under subsection (1), the licensee shall submit to the Commissioner, the following particulars'—

Commissioner shall communicate his decision to applicant or licensee together with his reasons therefor.  
Appeals.

- (a) the name and address of the employer abroad;
- (b) a copy of the contract or agreement entered into by the licensee with the employer abroad for recruitment of persons;
- (c) the nature of employment for which persons are to be recruited ;
- (d) the terms and conditions of employment including those relating to wages, holidays, hours of work and passage from and to Sri Lanka offered by the employer to the persons to be recruited for employment abroad; and
- (e) such further particulars as may be prescribed.

(3) Where the particulars submitted under subsection (2) are insufficient, the Commissioner may call for such additional particulars as he may consider necessary.

(4) The Commissioner may refuse to grant approval under subsection (1) in any case where he is satisfied that the nature of the employment for which persons are to be recruited is degrading or inhuman or that the terms and conditions of such employment are unreasonable having regard to the average standards of employment of persons.

(5) The Commissioner shall not disclose to any person other than the officers of the Department of Labour for the purposes of the discharge of their functions under this Act, or to any court of law, any information furnished to him under subsections (2) and (3) except with the consent of the licensee.

Authorized officer may be present at interview of person for recruitment for employment abroad.

**16.** An officer authorized in writing for the purpose by the Commissioner, may be present at any interview, conducted by a licensee, of any person for recruitment for employment abroad for the purpose of ensuring conformity with the provisions of this Act or any regulation made thereunder and it shall be the duty of such licensee to afford all facilities to such officer to be so present.

**17.** (1) The Commissioner may refuse to approve the recruitment of any class or category of persons for employment abroad—

Grounds on which approval may not be granted.

(i) if in his opinion—

(a) the services of that class or category of persons are vital to the economic development of Sri Lanka; or

(b) having regard to the current and prospective demand of the services of that class or category of persons, the departure of persons of that class or category from Sri Lanka will adversely affect the national economy; or

(c) having regard to the skills of that class or category of persons, the terms and conditions of employment offered to them are not satisfactory; or

(ii) if the employment offered is not regulated by law in the country in which such employment is offered.

(2) A licensee who is aggrieved by a decision of the Commissioner refusing to approve the recruitment of any class or category of persons for employment abroad, may, within fourteen days of the date on which such decision is communicated to him, appeal against such decision to the Secretary to the Ministry.

(3) Such Secretary may, on any appeal made under subsection (2)—

(a) allow the appeal and direct the Commissioner to approve the recruitment of the class or category of persons to whom the appeal relates; or

(b) disallow the appeal.

(4) The Commissioner shall comply with any direction issued to him under subsection (3).

Contract of employment.

**18.** (1) The contract of employment between the employer abroad and the person recruited for employment by such employer shall, before it is signed by such employer or his agent and such person, be read and explained to such person in a language that he understands.

(2) Two copies of the contract referred to in subsection (1) shall as soon as the contract is signed, be forwarded to the Commissioner by the licensee or such agent to be certified by such Commissioner, prior to the departure from Sri Lanka, of the person recruited for employment.

(3) As soon as the Commissioner certifies the copies of such contract under the provisions of subsection (2), he shall inform such licensee or agent of the same and shall forward for registration, one copy of such contract to the Ministry charged with the subject of Labour of the country of the employer abroad.

Maintenance of records.

**19.** Every licensee shall maintain such records as may be prescribed.

Returns.

**20.** (1) The Commissioner may at any time by written directions require a licensee to send him before the date specified in any such direction—

- (a) a return containing such particulars as he may require in relation to the business of the foreign employment agency carried on by the licensee ;
- (b) evidence of remittance to a bank in Sri Lanka, of the commission payable by the employer on whose behalf the licensee recruits any person for employment abroad; and
- (c) such written information or written explanation as he may require in respect of any particulars stated in any return sent by the licensee.

(2) The licensee to whom a direction under subsection (1) is issued shall comply with the direction within such time as shall be specified in the direction.

**21.** (1) The Commissioner or any person- authorized by the Commissioner in writing in that behalf may—

Powers of entry and inspection.

- (a) for the purpose of ascertaining whether the provisions of this act and any regulation made "thereunder are complied with, enter and inspect, at all reasonable hours of the day or night, the premises in which the business of a foreign employment agency is carried on by a licensee; and
- (b) inspect, and take copies of, any records required by or under this Act or any regulation made thereunder to be kept in respect of that business.

(2) Every person who obstructs or delays the Commissioner or any person authorized by him in that behalf in the exercise of any power conferred by subsection (1) shall be guilty of an offence under this Act.

**22.** The Commissioner may issue to a licensee such directions as he may think necessary for the purposes of making the licensee to comply with the provisions of this Act and any regulation made thereunder and any licensee to whom any such direction is issued shall comply with such direction within such time as shall be specified in the direction.

Directions of the Commissioner.

**23.** (1) Where the Commissioner receives a complaint from any person recruited for employment abroad or employed abroad—

Inquiry into complaints made by persons recruited for employment abroad.

- (a) that the terms and conditions imposed on an employer by the contract of employment in relation to him have not been observed by that employer; and
- (b) that the licensee who recruited him for employment abroad has, in breach of the agreement entered into by the licensee with the Commissioner under section 6 (1) (a), failed to take such steps as are reasonably possible to ensure that those terms and conditions are observed by the employer,

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the Commissioner may, after such inquiry as he may deem necessary, direct the licensee to pay that person such sum of money as may be determined by the Commissioner to be sufficient to defray the expenses, including cost of passage to Sri Lanka, incurred by that person as a result of the breach of those conditions by the employer.

(2) The Commissioner shall at any inquiry held under subsection (1) give the parties affected an opportunity to be heard.

Regulations.

**24.** (1) The Minister may make regulations in respect of any matter in respect of which regulations are authorized by this Act to be made or required by this Act to be prescribed.

(2) Every regulation made under subsection (1) 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 under subsection (1) shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval and any 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.

(4) The date on which any regulation is deemed to be so rescinded shall be published in the Gazette.

Offences.

**25.** Every person who—

(a) contravenes any provisions of this Act or of any regulation made thereunder; or

(b) furnishes any return, written information or written explanations containing any particulars which to his knowledge are false and incorrect,

shall be guilty of an offence and shall on conviction by a Magistrate be liable to a

fine not exceeding one thousand five hundred rupees or to imprisonment of either description to a term not exceeding eighteen months or to both such fine and imprisonment.

**26.** Where any offence under this Act is committed by a body of persons then—

Offences by body of persons.

(a) if the body of persons is a body corporate, every person who at the time of the commission of that offence was a director or officer of that body corporate; or

(b) if the body of persons is a body other than a body corporate, every person who at the time of commission of the offence was a member of that body,

shall be deemed to be guilty of the offence :

Provided, however, that such director, officer or member shall not be deemed to be guilty of that offence if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of that offence.

**\*28.** In this Act, unless the context otherwise requires—

Interpretation.

" appointed date " means the 23rd day of March, 1981;

" business of a foreign employment agency" means business (whether or not carried on by charging fees or otherwise and whether or not carried on in conjunction with any other business) of providing services (whether by provision of information or otherwise) for the purpose of finding persons employment with employers abroad or of supplying employers abroad with persons for employment by them abroad and includes the issue of an advertisement or notice calling for applications from persons for employment abroad or taking of any other action in connexion with or incidental to such employment;

\* Section 27 (repealing and amending provision) is omitted.

# ***FOREIGN EMPLOYMENT AGENCY* [Cap. 150**

" Commissioner " means the person for a *time* being holding the office of Commissioner of Labour and includes a person for the time being holding the office of Deputy or Assistant commissioner of Labour

"employer" includes a body of employers;

" licence " means a licence issued under this Act; 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 funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise.

\* Repealed and replaced by the Companies Act, No. 17 of 1982.

CHAPTER 151

FEE-CHARGING EMPLOYMENT AGENCIES

Acts AN ACT TO REGULATE THE CARRYING ON OF THE BUSINESS OF A FEE-CHARGING
Nos.37 of 1956, EMPLOYMENT AGENCY AND TO PROVIDE FOR MATTERS CONNECTED
32 of 1980 THEREWITH OR INCIDENTAL THERETO.

[1 st March. 1958.]

Short title. I. This Act may be cited as the Fee-Charging Employment Agencies Act.

Necessity to obtain a licence. 2. No person shall carry on the business of a fee-charging employment agency except under the authority of a licence issued by the Commissioner:

Provided, however, that it shall not be a contravention of the preceding provisions of this section if a person who has commenced to carry on the business of a fee-charging employment agency before the appointed date and who has applied for a licence under this Act within the time allowed by section 3 (2) continues to carry on such business until the determination of his application for the licence.

Application for a licence. 3. (1) Every application for a licence shall be in the prescribed form.

(2) Every person carrying on the business of a fee-charging employment agency on the appointed date may apply to the Commissioner for a licence within one month after that date.

Conditions to be fulfilled for the grant of a licence. 4. No licence to carry on the business of a fee-charging employment agency shall be granted unless—

(a) where such business is to be carried on by an individual, he is a citizen of Sri Lanka,

(b) where such business is to be carried on by a firm, the partners of the firm are citizens of Sri Lanka,

(c) where such business is to be carried on by a company, the majority of the shares in the capital of the company is held by citizens of Sri Lanka,

(d) the person to be in charge of such business is of good reputation,

(e) there are suitable premises for carrying on such business,

(f) the individual who, or the firm or company which, is to carry on such business undertakes that such business will be carried on in a morally and otherwise irreproachable manner,

(g) such individual, firm or company enters into a bond with the Commissioner, with two sureties, in such sum as may be determined by the Commissioner for the satisfaction of claims which might arise in connexion with such business, and

(h) such other conditions as may be prescribed for the purposes of this section are fulfilled.

5. No licence shall be issued by the Commissioner to any person unless such person pays the Commissioner the prescribed fee. Licence fee.

6. Every licence shall—

(a) be in the prescribed form, and

Form and duration of licence.

(b) unless it is cancelled earlier, be in force for a period of twelve months from the date of its issue.

officer in the exercise of any power conferred on the Commissioner or such officer by subsection (1) shall be guilty of an offence under this Act.

Fees for services not to exceed prescribed fees.

**7.** No fee-charging employment agency shall charge for any service rendered by that agency a fee in excess of the prescribed fee for such service.

**12.** The Commissioner may issue to a fee-charging employment agency such directions as he may think necessary for the purpose of making such agency comply with the provisions of this Act, and any such agency to whom any such direction is issued shall comply with it within such time as shall be specified therein.

Commissioner's power to issue directions which are to be complied with.

Maintenance of records.

**\*9.** Every fee-charging employment agency shall maintain such records as may be prescribed.

Returns.

**10.** (1) The Commissioner may at any time by written direction require a fee-charging employment agency to send him before the date specified in such direction—

**13.** The Commissioner may cancel any licence— Cancellation of licences-

(a) a return containing such particulars as he may require in relation to the business of such agency, and

(a) if he is satisfied that the licensee—

(b) such written information or written explanation as he may require in respect of any particulars stated in any return sent by such agency.

(i) has contravened any of the provisions of this Act or of any regulation made thereunder or of any bond or undertaking entered into by the licensee under this Act, or

(2) A fee-charging employment agency to which a direction under subsection (1) is issued shall comply with the direction within such time as shall be specified in the direction.

(ii) has been convicted of an offence under this Act, or

(iii) has not complied with any direction issued by the Commissioner to the licensee under this Act, or

Powers of entry and inspection.

**11.** (1) The Commissioner or any prescribed officer may—

(iv) has furnished in any application, or in any return, or in any written information or written explanation, sent by the licensee under this Act, any particulars which to the knowledge of the licensee are false or incorrect, or

(a) for the purpose of ascertaining whether the provisions of this Act are being complied with, enter and inspect, at all reasonable hours of the day or night, the premises in which the business of a fee-charging employment agency is carried on, and

(b) for such cause as may be prescribed.

(b) inspect, and, take copies of, any records required by or under this Act to be kept in respect of such business.

**#(14)** The Minister may make Regulations. regulations—

(2) Every person who obstructs or delays the Commissioner or any prescribed

(a) in respect of all matters authorized or required by this Act to be prescribed, and

\* Section 8 has been repealed with effect from 23rd March, 1981, by Act No. 32 of 1980.

# Section 14 has been in operation from 1st September, 1956.

(b) for the purpose of carrying out or giving 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-

(3) Regulations may be made by the Minister and approved by the Senate and the House of Representatives, and notification of such approval may be published, under this section before the appointed date, but where my regulations are so made and approved and notification of such approval is so published, those regulations shall not come into force until the appointed date.

or with the written sanction of the Commissioner.

**18.** Every person who is guilty of an offence under this Act shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment. Punishment for offences.

**19.** In this Act, unless the context otherwise requires— interpretation.

"appointed date" means the 1st day of March, 1958;

"Commissioner" means the person for the time being holding the office of Commissioner of Labour and includes any person for the time being holding the office of Deputy or Assistant Commissioner of Labour;

\*" fee-charging employment agency" [§27.32 of 1980] means any individual, firm or company who or which, with the view to deriving directly or indirectly any pecuniary or other material advantage (whether such advantage be profit, a fee or other pecuniary or other material advantage), from an employer or worker, acts as an intermediary for the purpose of procuring employment in Sri Lanka for a worker or of supplying an employer for employment in Sri Lanka with a worker, but does not include any individual, firm or company who or which recruits seamen or publishes or causes to be published any newspaper or other publication unless that newspaper or other publication is solely or mainly concerned with the aforesaid purpose;

" licence " means a licence issued under this Act; and

" prescribed" means prescribed by regulation made under this Act.

Offences.

**15.** Every person who—

(a) contravenes any of the provisions of this Act or of any regulation made thereunder, or

(b) furnishes any return, written information or written explanation containing any particulars which to his knowledge are false or incorrect,

shall be guilty of an offence under this Act.

Offences by bodies of persons.

**16.** Where any offence under this Act is committed by a body of persons, then—

(a) if that body is a body corporate, every director of that body corporate shall be deemed to be guilty of that offence, and

(b) if that body is a firm, every partner of that firm shall be deemed to be guilty of that offence:

Provided, however, that no such director or partner shall be deemed to be guilty of an offence under this Act 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.

Prosecutions.

**17.** No prosecution for any offence under this Act shall be instituted except by

• This definition takes effect on 23rd March, 1981.



**CHAPTER 273**

**FREEDOM FROM HUNGER CAMPAIGN**

Law No. 15 of 1973. A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE SRI LANKA NATIONAL FREEDOM FROM HUNGER CAMPAIGN BOARD AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

*[29 th March, 1973.]*

Short title. **1.** This Law may be cited as the Sri Lanka National Freedom from Hunger Campaign Law. (ui) to aid, promote and co-ordinate specific projects directed towards agricultural and industrial development;

**PART I**

**ESTABLISHMENT, OBJECTS AND POWERS OF THE SRI LANKA NATIONAL FREEDOM FROM HUNGER CAMPAIGN BOARD**

Establishment of Sri Lanka National Freedom From Hunger Campaign Board. **2.** (1) There shall be established a Board which shall be called the Sri Lanka National Freedom From Hunger Campaign Board (hereinafter referred to as the " Board ") and which shall consist of the persons deemed to be members of the Board under section 5.

(iv) to stimulate non-governmental agencies in the implementation of projects for increasing agricultural and industrial production;  
(v) to collaborate with the International Freedom From Hunger Campaign and other similar institutions, associations or societies abroad.

**4.** The Board shall, in furtherance of the objects of the Board, have the power— Power of the Board.

(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.

(a) to receive aid and donations in cash, equipment or in any other form from non-governmental sources;

(b) to disburse such aid and donations on such terms and conditions as the Board may deem necessary;

(3) The head office of the Board shall be in Colombo or at such other place as may be determined by the Board.

(c) to review and co-ordinate the activities of non-governmental agencies receiving assistance in cash, goods or services from foreign sources;

General objects of the Board. **3.** The general objects of the Board shall be-

(i) to secure the aid of non-governmental agencies, both foreign and local, for social and economic development in accordance with the programme of development formulated by the Government;

(d) to call for reports on the activities of non-governmental organizations receiving aid in cash, goods or services from non-governmental sources for the purposes specified in section 3;

(ii) to assist institutions and other bodies in carrying out schemes of public utility, social welfare and economic development;

(e) to negotiate with non-governmental organizations, both foreign and local, for the grant of aid for approved projects;

- (f) to sell, or otherwise dispose of, commodities received by way of aid from non-governmental sources;
- (g) to purchase, hold, take on lease, rent, hire or mortgage any movable or immovable property;
- (h) to negotiate and enter into contracts or agreements and to vary or rescind such contracts or agreements;
- (i) to sell, manage, transfer, exchange, mortgage, lease, hire or otherwise dispose of any movable or immovable property;
- (j) to impose and recover charges for the services rendered by the Board ;
- (k) to recover, in appropriate cases, the rupee value of aid or donations whether in cash, commodities or equipment received from foreign non-governmental sources and channelled to local recipients, from such recipients;
- (l) to establish and maintain information and educational services;
- (m) to draw, make, accept, endorse, and discount cheques, notes or other negotiable instruments for the purposes of the Board ;
- (n) to pay all expenses preliminary or incidental to the establishment of the Board and for the management and administration of its affairs ;
- (o) to do all such other things as the Board may think it necessary, incidental or conducive to the attainment of its objects.

(b) six other members (hereinafter referred to as "nominated members") nominated as follows:—

- (i) two such members shall be officers nominated by the Minister in charge of the subject of Planning from among officers attached to or serving in any Department under his Ministry;
- (ii) one such member shall be an officer nominated by the Minister in charge of the subject of Plantation Industries from among officers attached to or serving in any Department under his Ministry;
- (iii) one such member shall be an officer nominated by the Minister in charge of the subject of Agriculture from among officers attached to or serving in any Department under his Ministry;
- (iv) one such member shall be an officer nominated by the Minister in charge of the subject of Home Affairs from among officers attached to or serving in any Department under his Ministry;
- (v) one such member shall be an officer nominated by the Minister in charge of the subject of Irrigation from among officers attached to or serving in any Department under his Ministry.

Constitution of the Board.

**5.** (1) The Board shall consist of the following members:—

- (a) a Chairman, Vice-Chairman and three other members appointed by the Minister (all such members being hereinafter referred to as "appointed members"); and

(2) A person shall be disqualified from being appointed or from continuing as an appointed member of the Board if he is or becomes a Member of Parliament or if he is not or ceases to be a citizen of Sri Lanka.

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(3) Every appointed member of the Board-

(a) shall, unless he earlier vacates his office by death, resignation or removal, hold office for a period of three years from the date of his appointment; and

(b) shall 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 shall hold office for the unexpired portion of the term of office of the member whom he succeeds.

(4) Every nominated member shall, unless he earlier vacates office by death or removal, hold office during his tenure of office in the post which he held at the time of his appointment as member of the Board or for a period of three years, whichever is the lesser.

(5) A member of the Board, other than a nominated member, may resign his office by letter addressed to the Minister.

(6) Any member of the Board may be removed from office by the Minister without assigning any reason therefor, so however, that a member who was nominated by a Minister under subsection (1) (b) of section 5 shall not be so removed without the concurrence of the Minister who nominated such member.

(7) The removal of any member of the Board under subsection (6) shall not be called in question in any court.

(8) All or any of the members of the Board may be paid remuneration out of the funds of the Board at such rates as may be determined by the Minister.

(9) Where any member of the Board becomes temporarily unable to perform the duties of his office by reason of illness or other infirmity or absence from Sri Lanka, the Minister may appoint a fit and proper person to act in his place.

(10) Where the Chairman or Vice-Chairman of the Board becomes temporarily unable to perform the duties of

his office by reason of illness or other infirmity or absence from Sri Lanka, the Minister may appoint a fit and proper person to act in place of such Chairman or Vice-Chairman, as the case may be.

(11) Where the Chairman or Vice-Chairman vacates his office earlier, the Minister may appoint another person to hold office during the unexpired term of office of such Chairman or Vice-Chairman, as the case may be.

(12) No act or proceeding of the Board 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.

**6.** (1) Meetings of the Board shall be held as often as the Chairman may deem necessary. Meetings of the Board.

(2) The quorum for a meeting of the Board shall be five members, and, subject as aforesaid, the Board may regulate its own procedure in regard to the meetings of the Board and the transaction of business at such meetings.

(3) The Chairman or in his absence the Vice-Chairman shall preside at all meetings of the Board.

(4) The Board shall cause minutes of its meetings to be recorded.

**7.** The Minister may give such general or specific directions in writing as to the performance of the duties and the exercise of the powers of the Board and it shall be the duty of the Board to comply with such directions. Directions of the Board.

**8.** 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 Board deemed to be public servants.

**9.** The Board shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall accordingly apply to and in relation to the Board. Board deemed to be a scheduled institution within the meaning of the Bribery Act.

**PART II**

**STAFF OF THE BOARD**

Appointment of officers and servants.

**10.** (1) The Board may appoint to the staff of the Board such officers, servants and agents as it considers necessary for the efficient discharge of its functions.

(2) Such officers, servants and agents 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 Board.

Powers of the Board in regard to the staff of the Board.

**11.** (1) The Board may make rules for the following purposes :—

- (a) the appointment, promotion, dismissal and disciplinary control of the staff of the Board ;
- (b) the fixing of salaries or other remuneration of the staff;
- (c) the terms and conditions of service of the staff; and
- (d) the administration of the affairs of the Board.

(2) At the request of the Board, any public officer 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 or with like consent be permanently appointed to such staff.

(3) Where any public officer is temporarily appointed to the staff of the Board, subsection (2) of section 9 of the Motor Transport Act, No. 48 of 1957,\* shall *mutatis mutandis* apply to and in relation to such officer.

(4) Where any public officer 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 such officer.

\* Repealed by Law No. 19 of 1978.

(5) 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 under the Board by that person shall be regarded as service under the Government for the purpose of discharging the obligations of such contract.

(6) Where any person is temporarily appointed to the staff of the Board, he shall be subject to the same disciplinary control as any permanent member of such staff.

**PART III**

**FINANCES OF THE BOARD**

**12.** (1) The Board shall have and maintain its own fund. Funds of the Board.

(2) There shall be paid into the fund of the Board—

- (a) a grant of two hundred thousand rupees out of the Consolidated Fund and such further grants as may, from time to time, be paid out of the Consolidated Fund, by resolution of Parliament;
- (b) such moneys as are lying on the day immediately preceding the date on which this Law comes into operation, to the credit of the Ceylon National Freedom From Hunger Campaign Committee in the People's Bank;
- (c) such service charges as may accrue to the Board on all aid disbursed to Government and non-governmental projects;
- (d) such moneys which will accrue from time to time to the Board under section 4 of this Law;
- (e) such trust funds as may be made available to the Board in terms of section 20 of the Trusts Ordinance.

(3) There shall be paid out of the fund of the Board—

- (a) all such sums of money required to defray the expenses of the Board,

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incurred in the exercise of its powers and the discharge of its functions under this Law ;

(b) the initial expenses incurred in the establishment of the Board and the recruitment of the staff, purchase of equipment and such other expenses as are necessary or incidental to the establishment of the Board ;

(c) all such moneys as may become payable from time to time in respect of projects approved by the Board.

Financial year of the Board.

**13.** The financial year of the Board shall be the period of twelve months commencing on the first day of January each year.

Application of provisions of the Public Corporations (Financial Control) Act.

**14.** The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control of the Board.

## PART IV

### GENERAL

Rules.

**15.** (1) The Board may make rules in respect of all or any of the matters for which rules are required or authorized to be made by this Law.

(2) No rule made by the Board shall have effect until it is approved by the Minister and published in the Gazette.

No writ to issue against person or property of a member of the Board.

**16.** No writ against person or property shall be issued against a member of the Board in any action brought against the Board.

Protection for action taken under this Law or on the direction of the Board.

**17.** No suit or prosecution shall lie against any 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 under the directions of the Board.

**18.** (1) the Board may appoint panels, each such panel consisting of such persons as the Board may consider necessary for the purpose of advising and assisting the Board on the general advancement of any particular activity or activities connected with or incidental to the carrying out of the objects of the Board.

Appointment of panels.

(2) The Chairman of the Board shall appoint a member of the Board as convener of any such panel or panels and an officer of the Board nominated by the Chairman shall function as the Secretary of each such panel.

(3) The Board shall have the power to revoke the appointment of any panel or any member of a panel appointed under this section without giving any reason therefor.

**19.** The Board shall be the successor to the Ceylon National Freedom from Hunger Campaign Committee, from the date on which this Law comes into operation, and all assets, liabilities, staff and equipment of the Ceylon National Freedom From Hunger Campaign Committee on the day immediately preceding the date on which this Law comes into operation shall accordingly be deemed to be part of the assets, liabilities, staff and equipment of the Board.

Board to succeed to assets, liabilities, &c., of the Ceylon National Freedom From Hunger Campaign Committee.

**20.** In this Law, unless the context otherwise requires— Interpretation.

" Ceylon National Freedom From Hunger Campaign Committee " means the Committee appointed in September, 1962, by the Minister of Land, Irrigation and Power;

" Minister " means the Minister to whom the subject of Agriculture has been assigned by the President.

**FERMENTED LIQUOR ON BOARD  
SHIPS OF THE REPUBLIC**

**CHAPTER 630**

**FERMENTED LIQUOR ON BOARD  
SHIPS OF THE REPUBLIC**

*Ordinance* AN ORDINANCE TO PREVENT SPIRITUOUS OR FERMENTED LIQUORS BEING TAKEN ON  
No. 15 of 1886. BOARD SHIPS OF THE REPUBLIC WITHOUT THE CONSENT OF THE  
COMMANDERS THEREOF.

*[4th December. 1886.]*

Short title. 1. This Ordinance may be cited as the  
Liquor (On Board Ships of the Republic)  
Regulation Ordinance.

No spirituous or fermented liquor of any description to be taken on board any of the ships of the Republic without the commander's consent. 2. It shall not be lawful for any person to take any spirituous or fermented liquor of any description on board any of the ships or vessels in any part of the sea adjacent to the coast of Sri Lanka and within the territorial sovereignty of the Republic, without the previous consent of the officer commanding the ship or vessel on board of which the same may be taken; and it shall be lawful for any officer in the service of the Republic or warrant or petty officer of the navy, or non-commissioned officer of the Sri Lanka Navy, with or without seamen or persons under his command, to search any boat or vessel hovering about or approaching, or which may have hovered about or approached, any of the ships or vessels of the Republic; and if any spirituous or fermented liquor be found on board such boat or vessel, to seize such spirituous or fermented liquor, and the same shall be forfeited to the State; and if any

person shall take any spirituous or fermented liquor on board any of the ships or vessels of the Republic without such previous consent as aforesaid, or shall approach or hover about any of the ships or vessels of the Republic for the purpose of taking any spirituous or fermented liquor on board the same, without such previous consent, or for the purpose of giving or selling without such previous consent, spirituous or fermented liquor to men in the service of the Republic, every such person shall, upon a summary conviction thereof before a Magistrate, pay a fine not exceeding one hundred rupees for every such act or offence; and it shall be lawful for any officer in the service of the Republic, or any such warrant or petty officer or non-commissioned officer as aforesaid, or for any police officer, with or without any warrant or other process, to apprehend or cause to be apprehended any such offender or person so acting and to bring him or cause him to be brought before any Magistrate, for the purpose of having the offender summarily convicted of the same.

Right to seize with or without warrant.

CHAPTER 437

FELLOWSHIP OF FREE CHURCHES

Law  
No. 47 of 1975.

A LAW TO INCORPORATE THE FELLOWSHIP OF FREE CHURCHES OF SRI LANKA.

[5th December, 1975.]

Short title.

1. This Law may be cited as the Fellowship of Free Churches of Sri Lanka (Incorporation) Law.

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.

General powers  
of the  
Corporation.

Incorporation  
of the  
Fellowship  
of Free  
Churches of  
Sri Lanka.

2. From and after the date of commencement of this Law, such and so many persons as now are members of the Fellowship of Free Churches of Sri Lanka (hereinafter referred to as "the Fellowship") 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 Fellowship of Free Churches 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.

5. The voting membership of the Corporation shall comprise the following members of the Fellowship :—

Voting  
membership.

- (a) ordained ministers;
- (b) licensed ministers;
- (c) one delegate from each organized Free Church in which there are not more than twenty-five members and another delegate in the event of the membership of such Free Church exceeding twenty-five;

General objects  
of the  
Corporation.

3. The general objects of the Corporation are hereby declared to be—

- (a) to provide a basis of working fellowship among all Churches of like faith which have accepted the Statement of Faith of the Fellowship;
- (b) to establish and maintain Bible colleges, orphanages, hospitals and such other institutions as may be considered necessary for the furtherance of the basic aims of the Fellowship; and
- (c) to do all such other things as are incidental or conducive to the accomplishment of the above objects.

(d) a representative from each infant Free Church that has been in existence for a period of more than one year.

6. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation, be administered by an Executive Committee, consisting of the Chairman, the Secretary, the Treasurer and such other persons as may be provided for in such rules and elected in accordance therewith.

Executive  
Committee.

(2) The first Executive Committee of the Corporation shall be the Executive Committee of the Fellowship holding office on the date of commencement of this Law.

# FELLOWSHIP OF FREE CHURCHES

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Rules of the Corporation.

7. (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 of the voting membership 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. 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 voting membership at a general meeting of the Corporation.

(3) The rules of the Fellowship 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.

8. All debts and liabilities of the Fellowship 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 Fellowship shall be paid to the Corporation for the purposes of this Law.

9. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of the Chairman and another member of the Executive 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.

10. 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.

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 others claiming by, from, or under them.

Debts due by and payable to the Fellowship.

How the seal of the Corporation is to be affixed.

Corporation may hold property movable and immovable.

Saving of the rights of the Republic and others.



Cap. 284] **FELLING OF TREES (CONTROL)**

**CHAPTER 284**

**FELLING OF TREES (CONTROL)**

Acts Nos. 9 of 1951, 30 of 1953. AN ACT TO PROVIDE FOR THE PROHIBITION, REGULATION OR CONTROL OF THE FELLING OF TREES.

[15 th March, 1951.]

Short title. **1.** This Act may be cited as the Felling of Trees (Control) Act.

Orders prohibiting or regulating the felling of trees. **2.** (1) The Minister may by Order provide for the prohibition, regulation or control of the felling of trees of such description as may be specified in the Order.

(2) An Order under this section may be made so as to have effect either throughout Sri Lanka or in any particular area in Sri Lanka, and may prohibit the doing of anything regulated by the Order except under the authority of a licence granted by such officer as may be specified in the Order.

(3) Every Order made by the Minister under this section 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 therein.

(4) Every Order made by the Minister under this section shall, as soon as practicable after it comes into operation as hereinbefore provided, be laid before Parliament; and if a resolution is passed by Parliament, within forty days after the

Order is so laid, that the Order shall be annulled, the Order shall with effect from the date of the resolution be void, but without prejudice to anything previously done thereunder.

Every Order which is not so annulled shall be as valid and effectual as though it were herein enacted.

**3.** Any person authorized by the Commissioner of Agrarian Services may take such steps whether by marking or otherwise as may be necessary for the purpose of the identification of trees to which an Order under section 2 or any licence thereunder relates.

Steps for identification of trees.

**\*4.** Any person who acts in contravention of any Order made under this Act or of any condition inserted in any licence granted under any such Order 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 six months or to both such fine and imprisonment.

Penalty for contravention of Order.

\* Primary Court has exclusive jurisdiction—See section 33 of the Jurisdiction Act read with Gazette Extraordinary No. 43/4 of 1979.07.02.

**CHAPTER 274**

**FOOD PRODUCTION (ESTATES)**

Acts  
Nos. 40 of 1954,  
54 of 1957.

AN ACT TO MAKE PROVISION FOR THE CULTIVATION OF FOODSTUFFS BY PROPRIETORS OF ESTATES OR FOR THE PAYMENT OF MONEY IN LIEU OF SUCH CULTIVATION; FOR THE ESTABLISHMENT OF A FOOD PRODUCTION FUND; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

*[30 th July, 1954.]*

Short title.

**1.** This Act may be cited as the Food Production (Estates) Act.

Application of Act.

**2.** (1) This Act shall apply to every land or group of lands which forms a separate and distinct property and of which an extent of not less than thirty-five acres is under cultivation for any purpose other than the production of foodstuffs; every such land or group of lands is hereinafter referred to as an "estate".

(2) Where any land or group of lands referred to in subsection (1) is cultivated partly with tea and partly with any other plant or plants of any description—

- (a) the aggregate of such areas of that land or group of lands as are cultivated mainly with tea, and
- (b) the remaining portion of that land or group of lands,

shall each be deemed, notwithstanding that it is of an extent less than that specified in subsection (1), to be a separate estate within the meaning of that subsection.

Proprietors of estates to elect whether to cultivate foodstuffs or to pay money as provided by this Act.

**3.** (1) Before the end of January in each year the proprietor of every estate shall, in respect of that estate, elect and notify the Commissioner in writing whether such proprietor will—

- (a) cultivate during that year one or more foodstuffs in accordance with the provisions of section 5, or
- (b) pay as provided in section 6 a sum determined in accordance with the provisions of that section.

(2) If the proprietor of an estate fails to make an election under subsection (1) in respect of that estate for any year, such proprietor shall be deemed to have elected to pay in respect of that estate for that year as provided in section 6 a sum determined in accordance with the provisions of that section.

**4.** (1) Subject to any exemption granted or deemed to be granted under this Act or under any regulation made under this Act, an election made under section 3 in respect of any estate in any year shall for that year—

- (a) apply in relation to that estate, and
- (b) be a liability imposed in respect of that estate, notwithstanding any change of ownership of that estate in that year subsequent to such election.

Liability imposed in respect of estates.

(2) The person who is for the time being the proprietor of an estate shall discharge the liability imposed in respect of that estate by subsection (1).

**5.** (1) Where the election under section 3 in respect of any estate for any year is to cultivate foodstuffs, the liability imposed by this Act in respect of that estate for that year shall be discharged by the cultivation of foodstuffs in accordance with the succeeding provisions of this section.

Cultivation of foodstuffs.

(2) One or more foodstuffs may be cultivated for the purposes of this Act, and any foodstuff which is to be cultivated for those purposes in any year shall be

cultivated in such seasons of that year as are the seasons in which it is customary to cultivate that foodstuff in the region where the land to be used for the cultivation of that foodstuff is situated.

(3) The cultivation of any foodstuff for the purpose of discharging the liability imposed by this Act in respect of any estate may be either on that estate or on any other land:

Provided, however, that for such purpose—

(a) any area which is already under any cultivation other than permanent cultivation shall not, except with the prior approval of the Commissioner, be cultivated with any foodstuff, and

(b) any area which is already under permanent cultivation shall not be cultivated with any foodstuff.

(4) Subject to any declaration made by any regulation under section 9, the area which is to be cultivated with foodstuffs for the purpose of discharging the liability imposed by this Act in respect of an estate of any description set out in column 1 of the First Schedule shall not be less than an area equal to such percentage of the total cultivated area of that estate as is specified in the corresponding entry in column 2 of that Schedule.

(5) Where the election under section 3 in respect of any estate for any year is to cultivate foodstuffs in that year, the Minister or any officer authorized in that behalf by the Minister may, by notice served on the proprietor of that estate, specify the description of foodstuffs which must be cultivated by that proprietor and the season or seasons during which such foodstuffs must be cultivated in that year; and where such notice is served on that proprietor—

(a) the foodstuffs cultivated by that proprietor for the purpose of discharging the liability imposed by this Act in respect of that estate for that year shall be of the description specified in the notice, and

(b) such foodstuffs shall be cultivated during such season or seasons in that year as are specified in the notice.

6. Where the election under subsection (1) of section 3 in respect of any estate for any year is to pay in respect of that estate for that year as provided in this section a sum determined in accordance with the provisions of this section or where the election so to pay is deemed under subsection (2) of section 3 to have been made, the liability imposed by this Act in respect of that estate for that year shall be discharged by the payment, before the end of that year, to the credit of the Food Production Fund of a sum calculated at the rate of ten rupees for each acre of the total cultivated area of that estate.

Payment of money in lieu of cultivation of foodstuffs.

7. (1) The Minister or any officer authorized in that behalf by the Minister may, in his discretion, by order under his hand, exempt the proprietor of any estate, either absolutely or subject to such conditions as may be specified by him in the order, from the whole or any part of the liability imposed by section 4 in respect of that estate, if the Minister or such officer is satisfied that such proprietor has, whether before or after the commencement of this Act—

Exemption of persons participating in approved companies and undertakings.

(a) acquired in any approved company or companies shares of a value not less than an amount (hereinafter referred to as "the minimum amount") calculated at the rate of ten rupees for each acre of the total cultivated area of that estate, or

(b) contributed an amount not less than the minimum amount to the capital of any approved undertaking.

(2) The Minister may at any time, by order under his hand, revoke any exemption granted under subsection (1) to the proprietor of any estate, on being satisfied—

(a) that such proprietor has ceased to be a shareholder of any approved company or companies or to be a contributor to the capital of any approved undertaking, or

(b) that the value for the time being of any shares held by such proprietor in any approved company or companies, or the amount for the time being contributed by such proprietor to the capital of any approved undertaking, is less than the minimum amount, or

(c) that the company, or each of the companies, of which such proprietor is a shareholder, or the undertaking to the capital of which he is a contributor, has ceased to be an approved company or undertaking, or

(d) that such proprietor has not complied with any of the conditions subject to which the exemption was granted.

(3) Any exemption granted under subsection (1) to the proprietor of an estate shall cease to be valid in respect of that estate, if such proprietor sells or transfers that estate to any other person. Nothing in this subsection shall be deemed to preclude the purchaser or transferee from applying for and obtaining an exemption under subsection (1).

(4) (a) The Minister may—

(i) by Notification published in the Gazette, declare any incorporated company, which is engaged in the production of foodstuffs in Sri Lanka, to be a company approved by him for the purposes of this section, and

(ii) by writing under his hand, declare any undertaking carried on by any partnership or other unincorporate body of persons for the purpose of producing foodstuffs in Sri Lanka, to be an undertaking approved by him for the purposes of this section.

(b) The approval given by the Minister to any company or undertaking may be declared by him to be subject to such conditions as he may specify, and may be withdrawn by him in the manner in which such approval was given if he is satisfied

that any such condition has not been complied with by the company or undertaking.

(5) In this section, " approved company " means a company, and " approved undertaking " means an undertaking, in respect of which a declaration by the Minister under subsection (4) is for the time being in force.

8. (1) The Minister or any officer authorized in that behalf by the Minister may, in his discretion, by writing under his hand, exempt the proprietor of any estate, either absolutely or subject to such conditions or for such period as may be specified in such writing, from the whole or any part of the liability imposed by section 4 in respect of that estate, if the Minister or such officer is satisfied that such proprietor—

Exemption of persons engaged in the production of certain articles of food.

(a) is engaged in rearing livestock or poultry, or in the cultivation of fruit trees, or in the production of any article of food, and

(b) has expended, or is expending, in connexion with any of the activities mentioned in paragraph (a) such sum or sums of money as may be deemed by the Minister or such officer to be a sufficient discharge of the whole or any part of such liability.

(2) The Minister may at any time, by order under his hand, revoke any exemption granted under subsection (1) to the proprietor of any estate on being satisfied that such proprietor—

(a) has ceased to be engaged in any of the activities mentioned in paragraph (a) of that subsection, or

(b) has not complied with any of the conditions subject to which the exemption was granted.

9. (1) Regulations may be made either generally with respect to all estates or specially with respect to estates of any specified class or description—

Regulations for and conditions of exemption.

(a) providing for the exemption of, or authorizing the Commissioner by

order to exempt, the proprietor of any such estate from the whole or any part of the liability imposed by section 4, and

- (6) declaring or authorizing the Commissioner by order to declare that the minimum area which shall be cultivated with foodstuffs by the proprietor of any such estate for the purpose of discharging the liability imposed by this Act in respect of that estate shall be the area specified in the regulation or order, being an area less than the minimum area specified in subsection (4) of section 5.

(2) Any regulation made under subsection(1)—

- (a) may provide that the exemption referred to in paragraph (a) of that subsection shall have effect only if the proprietor of the estate fulfils the conditions that such area in the estate as is declared by the Commissioner to be suitable for the purpose shall be cultivated with paddy after being asweddumized where necessary,
- (b) may Impose or authorize the Commissioner to impose such duties on the proprietor of the estate as may be necessary to secure compliance with the aforesaid condition, and
- (c) may provide that any section of this Act specified in the regulation shall not apply in relation to any estate exempted by or under any such regulation or shall apply subject to the modifications so specified.

such particulars as the Commissioner\* or such officer may require for the purposes of this Act, unless that person has before that date furnished, under the provisions of the Food Production (Estates) Order or of the Food Production (Estates) Ordinance, No. 2 of 1943,# a return containing such particulars.

(2) Every person who, on any date subsequent to the commencement of this Act, becomes the proprietor of an estate shall, before the expiry of thirty days after that date, furnish to the Commissioner or to such officer as may be specified by the Commissioner by notification for the time being in force under subsection (1) the proprietor's full name and address, the name, if any, and the situation and extent of that estate, and the date on which he became the proprietor of that estate.

(3) Where any change occurs in the extent of any estate after a return in respect thereof has been furnished under subsection (1), or under the Order or Ordinance referred to in that subsection, or under subsection (2), the proprietor of that estate shall, within thirty days after the date of the occurrence of the change, furnish to the Commissioner or to such officer as may be specified by the Commissioner by notification for the time being in force under subsection (1) a statement setting out that proprietor's full name and address, the name, if any, and the situation of that estate, the extent of that estate before the aforesaid change, and the nature and date of such change.

(4) The proprietor of every estate shall, in addition to any return required to be furnished by him under the preceding provisions of this section, furnish to the Commissioner or to such officer as may be specified by the Commissioner by notification for the time being in force under subsection (1) such returns and other information as the Commissioner or such officer may from time to time require for the purposes of this Act, and produce, whenever required to do so by notice in writing by the Commissioner or such officer, within such time as may be specified

Furnishing of returns and information and production of documents.

**10.** (1) Every person who, on the date of the commencement of this Act, is the proprietor of an estate shall, before the expiry of thirty days after that date, furnish to the Commissioner\* or to such officer as may be specified by the Commissioner\* by notification published in the Gazette, a return in respect of that estate containing

\* On the date of the commencement of this Act the Director of Food Production was performing this function.  
 # Repealed by Act No. 40 of 1954.

in the notice, such title deeds, survey plans, books, accounts or other documents relating to that estate and in the possession or under the control of that proprietor as may be required for the purposes of this Act.

(5) Every return under this section shall be made on such form as may be provided for the purpose by or on behalf of the Commissioner, and shall contain a declaration signed by the person making the return to the effect that the particulars contained therein are true and accurate. Such declaration shall be free of stamp duty.

Application for exemption.

**11.** (1) Every application for exemption from the whole or any part of the liability imposed by section 4 in respect of any estate shall be delivered or transmitted to the Commissioner on such form as may be provided for the purpose by or on behalf of him, and shall contain all such particulars as may be required to be set out on such form.

(2) Every application referred to in subsection (1) shall contain a declaration signed by the person making the application to the effect that the particulars contained therein are true and accurate. Such declaration shall be free of stamp duty.

Payment on failure to discharge liability to cultivate foodstuffs.

**12.** If the proprietor of an estate who, in respect of that estate, is liable under this Act to cultivate foodstuffs, fails to discharge such liability in respect of any year or of any season in any year, he shall, before the end of that year or of that season, as the case may be, pay to the credit of the Food Production Fund a sum calculated at such of the following rates as is appropriate to the case :—

- (a) where the liability which is not discharged is in respect of any year, then—
  - (i) if such liability is in regard to the entire estate, the rate shall be ten rupees for each acre of the total cultivated area of the estate, and
  - (ii) if such liability is in regard to a portion of the estate, the rate

shall be ten rupees for each acre of the total cultivated area of such portion of the estate;

(b) where the liability which is not discharged is in respect of any season of any year, then—

- (i) if such liability is in regard to the entire estate, the rate shall be five rupees for each acre of the total cultivated area of the estate, and
- (ii) if such liability is in regard to a portion of the estate, the rate shall be five rupees for each acre of the total cultivated area of such portion of the estate.

**13.** (1) Every sum which a proprietor of an estate is liable under this Act to pay to the credit of the Food Production Fund shall be paid at a kachcheri. Manner of making payments

(2) The proprietor of an estate who makes any payment to the credit of the Food Production Fund shall forthwith transmit to the Commissioner the receipt issued to him at the kachcheri in respect of that payment.

**\*14.** There shall be established a fund called the Food Production Fund for the following purposes:— The Food Production Fund.

- (a) promoting food production on Government farms;
- (b) making loans or grants to persons who have settled on lands leased, or otherwise alienated, by the Government;
- (c) making loans or grants to persons engaged in the rearing of livestock or poultry or in the maintenance of dairies;
- (d) making loans or grants to cultivators for asweddumizing private lands and raising crops thereon;
- (e) purchasing manure or seeds for distribution on loan or otherwise ;

\* All moneys lying to the credit of the Food Production Fund established under this section shall be transferred to the Agrarian Services Fund under section 67 (2) (a) of the Agrarian Services Act.

(f) purchasing tractors and other agricultural implements for hiring them out to cultivators, and the employment of the necessary staff to work the tractors ;

(g) organizing and maintaining the distribution of milk;

(h) promoting Government agricultural and livestock exhibitions, and organizing Government propaganda for fostering food production.

**16.** Subject to the direction and control of the Minister, the Food Production Fund shall be administered by the Commissioner in accordance with the provisions of this Act.

Administration of the Food Production Fund.

**17.** Any officer acting under the authority of the Minister or the Commissioner may from time to time enter and inspect any estate and carry out such investigations as he may deem necessary by reference to books, accounts, records or other documents maintained in such estate, for the purpose of—

Power of inspection.

Payments into and out of the Food Production Fund.

**15.** (1) There shall be paid into the Food Production Fund—

(a) all sums payable by the proprietors of estates under section 6, section 12, or section 21 (2),

(b) all sums which may from time to time be payable by way of principal or interest on loans granted out of such fund,

(c) all income derived either from the hiring out of tractors and other agricultural implements purchased with moneys of such fund or from any such business of distributing milk as may be financed by such fund, and

(d) all sums which, on the day immediately preceding the date of the commencement of this Act, were lying to the credit of or were payable to the Food Production Fund established under the Food Production (Estates) Ordinance, No. 2 of 1943.\*

(2) There shall be paid out of the Food Production Fund—

(a) such sums as the Minister may determine with the approval of the Minister in charge of the subject of Finance for application to any of the purposes mentioned in section 14, and

(b) any expenses connected with the administration of this Act.

(a) ascertaining whether compliance with the provisions of section 5 is being made in that estate, or

(b) verifying whether any of the activities referred to in paragraph (a) of subsection (1) of section 8 is being carried on, or whether any expenditure has been incurred in that behalf, in that estate;

and the person in charge of that estate shall permit and assist such officer to enter and inspect that estate and carry out such investigations for such purpose.

**18.** Any person—

Offences.

(a) who fails to make an election under section 3, or

(b) who fails to furnish any return, statement or other information, or to produce any document, required to be furnished or produced by him under section 10, or

(c) who does not permit any officer, authorized in that behalf by the Minister or Commissioner under section 17, to enter, or inspect, or carry out any investigations in, any estate under his charge, or

(d) who fails to discharge the liability imposed on him by subsection (2) of section 21,

shall be guilty of an offence, and shall on conviction after summary trial before a Magistrate be liable to pay a fine not

\* Repealed by Act No. 40 of 1954.

exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Recovery of sums payable under this Act.

**19.** If the proprietor of an estate makes default in the payment of any sum which he is liable under this Act to pay to the credit of the Food Production Fund, such sum may be recovered in like manner as though it were a debt due from him to the State.

Regulations.

**20.** (1) The Minister may make all such regulations as may appear to him to be necessary or expedient for carrying out and giving effect to the 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 regard to all matters in respect of which regulations are required or authorized by this Act to be made.

(3) No regulation made under this Act shall have effect unless it has been approved by Parliament and notice of such approval has been published in the Gazette.

Savings and transitional provisions.

**21.** (1) All exemptions granted under the provisions of the Food Production (Estates) Order and the Food Production (Estates) Ordinance, No. 2 of 1943,\* and in force on the day immediately preceding the 30th day of July, 1954, shall be deemed to be exemptions granted under the corresponding provisions of this Act and all the provisions of this Act relating to the revocation of exemptions shall accordingly apply to such exemptions.

(2) Where the liability imposed in respect of any estate by the Food production (Estates) Ordinance, No. 2 of 1943,\* has not, before the 30th day of July, 1954, been discharged for any such part of the year 1954 as is subsequent to the 30th day of July, 1954, then—

(a) it shall be a liability imposed in respect of that estate for that part of that year—

(i) to cultivate one or more foodstuffs in accordance with

the provisions of the aforesaid Ordinance, or

(ii) to pay, for each month in that part of that year, a sum calculated at the rate of eighty-four cents for each acre of the total cultivated area of that estate,

subject to any exemption granted or deemed to be granted under this Act or under any regulation made under this Act in respect of that estate, and

(b) the person who is for the time being the proprietor of that estate shall discharge the liability imposed in respect of that estate by this subsection.

Such provisions of the aforesaid Ordinance as relate to the cultivation of foodstuffs shall apply in relation to the cultivation of foodstuffs referred to in sub-paragraph (i) of paragraph (a) of this subsection in like manner as though those provisions were not repealed by Act No. 40 of 1954.

**22.** (1) In this Act, unless the context otherwise requires—

Interpretation.

"cultivated area"—

(a) when used with reference to any estate other than an estate which is cultivated mainly with coconut, means the area which is actually cultivated, and

(b) when used with reference to an estate which is mainly cultivated with coconut, means the area which is actually cultivated excluding any area planted or replanted with coconut on or after the 1st day of January, 1954, such latter area being excluded until the trees thereon come into bearing and the extent of such area being computed on the basis of seventy trees for an acre;

"Commissioner" means the Commissioner of Agrarian Services; [§ 2, 54 of 1957.]

\* Repealed by Act No. 40 of 1954.



"foodstuff" means any article of food specified in the Second Schedule and includes any other article of food which may be approved by the Commissioner for the purposes of this Act;

superintendent of the estate, and

(b) where such proprietor is absent from Sri Lanka, the duly accredited agent of such proprietor.

"Food Production (Estates) Order" means the Food Production (Estates) Order, 1942, published in Gazette Extraordinary No. 8,857 of 2nd February, 1942;

(2) For the purposes of this Act, an estate or an area of land shall be deemed to be under permanent cultivation if such estate or area, as the case may be, is planted mainly with tea, rubber, coconut, cocoa, cinnamon, cardamom or citronella or with any such other plant as may be specified in that behalf by the Minister by Notification published in the Gazette.

" Food Production Fund" means the Food Production Fund established under this Act; and

(3) For the purposes of any calculation made under this Act by reference to an acre or a month, a fraction which is less than, or which is over and above, an acre or a month shall be deemed to be an acre or a month as the case may be.

" proprietor" means the owner, lessee, usufructuary mortgagee, or other person lawfully in possession and taking the produce of an estate, and includes—

(a) where such proprietor is a company, the manager or

[Section 5.]

FIRST SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Estate under permanent cultivation which is tea or mainly tea.	12 per centum of the total cultivated area of the estate.
Estate under permanent cultivation other than tea.	6 per centum of the total cultivated area of the estate.
Estate under cultivation other than permanent cultivation.	6 per centum of the total cultivated area of the estate.

[Section 22.]

SECOND SCHEDULE

Grains	Legumes and Pulses	Yams	Fruits	Green Vegetables	Miscellaneous
Amu Elvi Kambu Kurakkan	Bean Cowpea Dhall Green Gram	Arrowroot Cassava Manioc Potato Sweet Potato	Melon Papaw (when cultivated for any purpose other than the production of papain)	Cabbages Jerusalem Artichokes Garden Vegetables	Sugar Cane Chillie Onion Gingelly
Maize Meneri Paddy	Horse Gram Soya Bean Sword Bean Lab Lab Bean Other Edible Beans Groundnuts	Other Edible Yams	Pineapple Plantain Pumpkin Tomato		

**CHAPTER 278**

**FLOOD PROTECTION**

Ordinance  
No. 4 of 1924,  
Act  
No. 22 of 1955.

AN ORDINANCE FOR THE PROTECTION OF AREAS SUBJECT TO DAMAGE FROM  
FLOODS.

[6th May, 1924.]

Short title. **1.** This Ordinance may be cited as the  
Flood Protection Ordinance.

Interpretation. **2.** In this Ordinance, unless the context  
otherwise requires—

" the Director " means the Director of  
Irrigation or any other person  
appointed to prepare and carry out  
a scheme under this Ordinance ;

" thoroughfare " has the same meaning as  
in section 40 of the Thoroughfares  
Ordinance.

Power to  
declare any  
area in  
Sri Lanka a  
flood area.

**3.** (1) The Minister may, by Order  
published in the Gazette, declare any area in  
Sri Lanka to be a flood area.

(2) While any such Order remains in  
force, the area indicated therein shall form a  
flood area, and be subject to the provisions  
of this Ordinance.

Preparation of  
scheme for  
protection of  
flood area.

**4.** (1) Where any area is declared to be  
a flood area, the Director shall prepare a  
scheme for the efficient protection of such  
area against floods, and also a statement of  
the estimated cost of the necessary work.

(2) The Director shall also delineate in  
distinguishing colours on a plan of such  
flood area the lands within the area liable to  
submergence and the dams, draining  
trenches, outfalls, sluices, locks, and other  
works which it is proposed to make or  
maintain, and, where it is expedient to  
change the position of any thoroughfare or  
portion thereof, shall delineate in  
distinguishing colours on the plan the best  
position and line for the proposed new  
thoroughfare.

**5.** (1) A copy of the scheme, together  
with the estimate of the cost of the necessary  
works and of the plan of the flood area,  
with the proper delineations thereon, shall  
be lodged at the office of the Director of  
Irrigation in Colombo, and also at the office  
of the Government Agent of the  
administrative district in which such flood  
area or any part thereof is situated and at  
such other places as may be named by the  
Minister.

Inspection of  
scheme and  
plan by  
persons  
interested.

(2) Notice that the documents and plan  
above referred to have been so lodged and  
are open for inspection shall be given by  
public advertisement in the Gazette and at  
least one newspaper published in Sri Lanka.

(3) The documents and plan shall remain  
open for the inspection of every person  
desiring to see the same on every day, not  
being a public holiday, during office hours,  
for three months after the date of the first  
publication of the notice.

(4) Any person whose lands are shown on  
any such plan as being liable to  
submergence or who considers that his  
property, whether situated within or outside  
of the flood area, would be injured by the  
carrying out of the scheme may, within such  
period of three months, lodge at the office  
of the Director in Colombo or of the  
Government Agent of the administrative  
district in which such flood area or any part  
thereof is situated his objections in writing  
to his lands being shown as so liable to  
submergence, or may state in writing the  
nature and extent of the damage he  
considers he would suffer if the scheme were  
carried out, furnishing full particulars in  
writing of such estimated damage.

(5) After the expiration of such period of three months, the Director shall forward the scheme, with the estimate and plan, and the objections to the scheme and statements of prospective damage, if any, with a full report thereon, to the Minister.

of this section mentioned being published apply to a court having jurisdiction within the division in which the flood area is situated to have the amount of his claim for such damage ascertained and certified.

Powers of Minister on consideration of scheme.

**6.** (1) (a) The Minister, after considering the scheme referred to in section 5, with all the objections thereto, may make such order as to him may seem fit—

(5) (a) Every such application shall be made by petition in a summary way as provided for in Chapter XXIV of the Civil Procedure Code, and in any such petition the Attorney-General shall be named as the respondent.

- (i) confirming, varying, altering, or rejecting any such scheme ;
- (ii) altering or extending the limits of any such flood area;
- (iii) directing works to be carried out for the protection and drainage of the flood area; or
- (iv) changing the position of any thoroughfare passing through such area or any portion thereof as to him may seem expedient.

(b) The court shall, after hearing the parties to any such petition, certify what is the estimated amount of damage which the applicant may have suffered or will suffer; and the amount certified shall be deemed part of the cost of the construction of the works and shall be paid in the same manner,

(b) The Minister may, from time to time, make amending orders with respect to any of the matters hereinbefore in this subsection mentioned.

(6) An appeal shall lie from any such certificate of a court in the same manner and subject to the same conditions as in the case of appeals arising within the ordinary jurisdiction of such court.

(2) Such order of the Minister and any amending order shall be published in the Gazette and at least one newspaper published in Sri Lanka.

(7) All proceedings before any court on appeal, as aforesaid, shall be liable to the same duties as are payable on ordinary proceedings in the said court or in respect of appeals therefrom.

(3) The Director is hereby authorized to, and, if Parliament provides the necessary funds, shall carry out and execute the works ordered or directed by the Minister and no person shall, except as in this section provided, be entitled to claim compensation for any alleged damage in consequence of such works being carried out.

**7.** The Government Agent of the administrative district in which the flood area is situated, or, if such flood area is situated in more districts than one, then such one of the Government Agents thereof as may be nominated by the Minister, shall be the flood authority for such area.

Flood authority.

(4) If any buildings, fences, growing crops, or trees are injured, destroyed, or cut down, or if the value of any land not previously liable to submergence is affected by being made so liable, in consequence of any such works being carried out, any person entitled to such buildings, fences, growing crops, or trees, or to such land may, within one month of such injury or destruction occurring, or of such trees being cut down, or of the order in subsection (2)

Provided that where any flood area falls, either wholly or in part, within the limits of a Municipality, the Minister may order that the Mayor of the Municipal Council shall be substituted for the Government Agent as the flood authority for the flood area.

**8.** The flood authority shall maintain, and is hereby empowered, in accordance with the provisions of this Ordinance, to do all acts necessary to maintain, in good order, all such dams, draining trenches, outfalls, sluices, locks, and other works as are required for the protection of the flood area.

Duties of flood authority.

Regulations for management of flood area.

9. (1) The Minister may make regulations for the purpose of carrying out the provisions of this Ordinance, and particularly, but without detracting from the generality of the powers hereinbefore in this section contained—

- (a) for ensuring the maintenance of the drainage of the flood area;
- (b) for ensuring the maintenance in good order of the works required for the purpose of protecting such area;
- (c) for the recovery of flood rates by the seizure and sale of any land liable to such rates and of any crops and movable property being in or upon any such land, and for the cancellation of any such sale of land upon payment of arrears of flood rates due in respect of any such land;
- (d) prescribing the duties to be performed and the powers to be exercised by inspecting officers.

(2) Such regulations may impose on the owner or occupier of any land in any such flood area all or any of the following obligations, that is to say:—

- (a) to keep clear, and of a specified width and depth, the portion of any draining trench bordering upon any such land;
- (b) to make and keep clear drains of sufficient size and depth to carry off the water from any such land into the draining trenches.

(3) All such regulations shall be published in the Gazette and shall thereupon, subject to the provisions of the next succeeding subsection, be as legal, valid, effectual, and binding as if they had been enacted in this Ordinance.

(4) All such regulations shall be laid as soon as conveniently may be before Parliament, and may at any time within forty days after the date of their being so laid before Parliament, or at any of the three meetings of Parliament next succeeding such date, by resolution of

Parliament, be disallowed, amended, or otherwise dealt with as may be directed by the said resolution, but without prejudice to anything that may have been done thereunder.

(5) Any person not complying with any such regulation shall be guilty of a summary offence and be liable on conviction to a fine not exceeding one hundred rupees.

10. There may be appointed such number of persons to be inspecting officers as may be expedient.

Appointment of inspecting officers.

11. (1) The cost of preparing a scheme, executing works, and payment of compensation under the provisions of this Ordinance shall be defrayed out of such funds as may be provided for the purpose by Parliament, and the amount of such cost, together with interest thereon at the rate of six *per centum* per annum, shall be repaid by a yearly rate on all lands within the flood area shown on the plan referred to in section 4 of this Ordinance to be liable to submergence for such term as may be directed by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Repayment of cost of executing works.

(2) In fixing any such rate the Minister shall take into consideration and give due effect to any amount which may be contributed by a vote of Parliament towards such cost as aforesaid.

(3) It shall be lawful for the Minister to agree with the owner of any land liable to pay any such yearly rate that such liability shall be compounded for a fixed sum, and upon such sum being paid to the Deputy Secretary to the Treasury such land shall become and be relieved from all further liability to pay any such rate.

12. The cost of maintaining the works sanctioned under this Ordinance, including the salary of any inspecting officers, of maintaining the drainage of any flood area, and of meeting the other expenses of carrying out the provisions of this Ordinance not otherwise expressly provided for may be defrayed by a yearly rate on all lands within the flood area shown on the plan referred to in section 4 of this Ordinance to be liable to submergence.

Defraying of cost of maintaining works.

Flood rate.

**13.** The amount of the yearly rates payable under section 11 and section 12 shall be added together, and shall be made one rate, to be called the " flood rate ".

Manner of levying flood rate.

**14.** (1) The flood rate shall be levied upon the appraised value of all lands within the flood area shown on the plan referred to in section 4 of this Ordinance to be liable to submergence.

(2) It shall be lawful for a flood authority to appoint persons to appraise the value of such lands who shall, in making such appraisal, take into consideration the description, condition, and locality of such lands, and the probable effect thereon of carrying out the scheme for the protection of the flood area.

(3) When any appraisal is completed, such appraisal shall be lodged at the kachcheri or at the office of the Municipality, as the case may be, and notice that such appraisal has been so lodged shall be published in the Gazette and at least one newspaper published in Sri Lanka. Subject to any fresh appraisal made as hereinafter provided, such first-named appraisal shall be final and conclusive.

(4) It shall be lawful for the owner of any land who considers that the same has been appraised at an excessive amount, within one month from the day of such appraisal being lodged as aforesaid, to give notice to the flood authority in writing that he requires a fresh appraisal to be made; and in such notice he shall name a person to act on his behalf as an appraiser.

(5) The authority shall, within one week from the receipt of such notice, appoint another appraiser, and such appraisers shall forthwith proceed to make a new appraisal.

(6) In case of a difference of opinion occurring between the appraisers so appointed with regard to the value of the property required to be newly appraised, such appraisers shall appoint an umpire, whose decision shall be final.

(7) If such appraisers cannot agree upon an umpire, the flood authority or the owner may apply to the Judge of the District

Court having jurisdiction in the district in which the land is situated to appoint such umpire as aforesaid.

(8) The Minister may, subject to the provisions of section 9 of this Ordinance, make regulations providing for the procedure to be adopted by appraisers in making fresh appraisements and generally for the carrying out of the purposes of this section.

**15.** The flood rate shall be determined in the manner following:—

Mode of determining amount of flood rate.

- (a) the flood authority shall, on or before the first day of January in each year, by writing signed by such authority, fix the rate for the ensuing year, and shall, on or before the said day, give public intimation thereof by notice to be published in the Gazette and one newspaper published in Sri Lanka;
- (b) any person objecting to the proposed rate may file his objections in writing at the office of the flood authority on or before the first day of March following;
- (c) the flood authority, as soon as may be practicable, shall forward to the Minister the said notice fixing the rate and all objections thereto ;
- (d) on receiving the said notice, and the objections in writing, if any, the Minister with the concurrence of the Minister in charge of the subject of Finance may finally determine what the rate shall be, and the rate so determined shall be the flood rate for the current year; and
- (e) the production of the Gazette containing an official intimation that the rate and the amount thereof have been determined by the Minister with the concurrence of the Minister in charge of the subject of Finance shall be conclusive evidence that the rate has been duly made.

**16.** The flood rate shall be payable in such instalments as may from time to time be appointed by the flood authority.

Payment of flood rate in instalments.

Proof of amount due.

17. A statement purporting to be signed by the flood authority shall, without proof of the signature, be prima facie evidence that the amount stated is payable in respect of the rate.

(4) If the Director cannot agree with such owner as to the compensation to be made, or if the owner cannot be found, or if it be not thought advisable to enter into any such agreement, then proceedings may be taken for obtaining possession of such land, and for compensating the owner, in the manner hereinafter in this Ordinance provided.

Change of thoroughfares.

18. (1) If it becomes necessary for the purposes of any scheme under this Ordinance to change the position of any thoroughfare passing through a flood area or any portion thereof, the Minister with the concurrence of the Minister in charge of the subject of Highways may order such thoroughfare or portion thereof to be stopped up and another course for such thoroughfare or portion thereof, to be substituted.

(2) If in the execution of any such order it becomes necessary to take possession of the land of any person, it shall be lawful for the Director, subject to the approval of the Minister, to make an agreement with the owner, for the compensation to be paid for such land, and for any buildings, fences, growing crops, or trees, thereon, either by allowing him to possess the ground, or part of the ground, of the former thoroughfare, or by the grant of other land in exchange or by payment of money or by any two or more of such methods.

(3) The land of any private person taken possession of in pursuance of such agreement shall vest in the State without any formal transfer thereof, and the certificate of the Director that any person has been allowed to possess any part of the ground of the former thoroughfare or such other land, together with a survey thereof, shall be a sufficient proof of the right of such person to the same.

19. The Director, any inspecting officer, and any flood authority, accompanied by the assistants, servants, workmen, and labourers employed by or under such Director, inspecting officer, or flood authority, may, at all times and with all necessary and proper vehicles and animals and other means, enter upon any land, and there severally do and perform all acts, matters, and things necessary for the purpose of carrying out the provisions of this Ordinance or for the effectual preparation of any scheme thereunder.

Power of entry.

20. Where under this Ordinance any land or building or part of any land or building is required for the purposes of this Ordinance, and the amount of the compensation in respect thereof is not settled by agreement, the Minister, upon the application of the Director or of the flood authority seeking to make the acquisition, may declare that the land or building or the part of the land or building is required for a public purpose, and may order proceedings to obtain possession of the same for the Government and to determine the compensation to be paid to the party interested under the Land Acquisition Act.

Acquisition of land for purposes of Ordinance.

**CHAPTER 318**

**FINANCIAL RESERVES**

*Ordinances* AN ORDINANCE TO MAKE PROVISION FOR THE MAINTENANCE AND DISPOSAL OF  
 Nos. 16 of 1944, FINANCIAL RESERVES.  
 9 of 1946.

[2nd May, 1944.]

Short title. **1.** This Ordinance may be cited as the Financial Reserves Ordinance.

Parliament, shall be sufficient authority for the Deputy Secretary to the Treasury for making—

Maintenance of financial reserves. **2.** (1) Where Parliament, by resolution passed at any time before the public accounts of Sri Lanka for any financial year are laid before Parliament, sets apart as a financial reserve any moneys out of such part of the Consolidated Fund and other funds of Sri Lanka as may remain unappropriated, or unexpended out of any appropriation, at the close of that financial year, such resolution shall be sufficient authority for the Deputy Secretary to the Treasury for—

(a) any payment in respect of any expenditure specified in the resolution, for the purpose or any of the purposes for which the reserve was set apart; or

(b) a transfer of any sum so specified to any other financial reserve so specified or to the Consolidated Fund.

(a) maintaining such moneys as a reserve, or adding such moneys to any previous reserve of the same description;

(b) crediting to that reserve any interest or profits derived from the investment of the reserve or any part thereof, where such crediting of interest or profits is required by the terms of the resolution; and

(c) keeping such accounts relating to that reserve as may in his opinion be necessary for giving effect to the resolution.

(2) Where a general reserve has been set apart as provided by section 2, a resolution in appropriate terms, passed by Parliament, shall be sufficient authority for the Deputy Secretary to the Treasury for making a transfer of any sum specified in the resolution from that reserve to the Consolidated Fund.

**4.** Where the expenditure of any sum forming the whole or any part of a special reserve has been authorized by resolution of Parliament under section 3—

Additional provisions as to utilization of special reserves.

(a) all payments necessary for such expenditure shall, as far as possible, be made by the Deputy Secretary to the Treasury directly out of the moneys forming that special reserve, and the accounts opened in respect of that reserve shall, irrespective of the financial year in which such payments are made, be kept in such manner as to show the amount which has been expended under the authority of that resolution, and the amount which remains of that reserve, at any given time;

(2) A financial reserve set apart as provided in this section shall be classified as a special reserve or as a general reserve according as the resolution relating to that reserve does or does not specify the purpose or purposes for which it is set apart.

Application or transfer of financial reserves. **3.** (1) Where a special reserve has been set apart as provided by section 2, a resolution in appropriate terms, passed by

(b) if any moneys forming part of that reserve are not immediately available for

such expenditure at any time, the Deputy Secretary to the Treasury may make the necessary payment by way of advance out of the Consolidated Fund or other funds of Sri Lanka and may make good to the Consolidated Fund or other funds the amount of any payment so made by recovering it from the moneys forming part of that reserve when such moneys are available; and

(c) any balance which may remain unexpended out of such sum shall not be deemed to lapse into the surplus balances of the Consolidated Fund or to be available for appropriation for the ordinary expenditure of Sri Lanka for any year, but shall continue to form part of that reserve, until it is transferred to any other special reserve or to the Consolidated Fund by resolution of Parliament under section 3.

5. (1) Each of the following funds in existence at the date of the commencement of this Ordinance, that is to say:—

- (a) the General Reserve Fund,
- (b) the Department of Government Electrical Undertakings Reserve, Extensions and Renewals Fund, and
- (c) the Ceylon University Building and Equipment Fund,

Application of Ordinance to certain funds in existence at the date of the commencement of the Ordinance.

shall be deemed for all the purposes of this Ordinance to be a financial reserve set apart as provided in section 2, and the provisions of this Ordinance shall apply thereto accordingly.

(2) In the case of the Ceylon University Building and Equipment Fund referred to in subsection (1), all interest and profits arising from the investment thereof shall be credited thereto.



**CHAPTER 631**

**FIRING RANGES AND MILITARY TRAINING**

*Acts* AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT AND THE REGULATION OF  
 Nos. 24 of 1951, THE USE OF FIRING RANGES AND FOR FACILITATING MILITARY TRAINING,  
 29 of 1953, AND TO PROVIDE FOR MATTERS CONNECTED WITH OR INCIDENTAL TO SUCH  
 22 of 1955, PROVISION.  
 20 of 1979.

[13th August, 1951.]

Short title. **1.** This Act may be cited as the Firing Ranges and Military Training Act. any firing range for such firing practice, during such period, and subject to such conditions, as may be specified by the Minister.

**PART I**

**FIRING RANGES**

Establishment of firing ranges. **2.** (1) The Minister may by Order establish a firing range—

(a) on any State land with the concurrence of the Minister in charge of the subject of State Lands, or

(b) on any land of which possession is taken or continued under the Requisitioning of Land Act, on the ground that the land is required for the purposes of use or occupation by the armed forces of Sri Lanka or any visiting force, or

(c) on any other land with the written consent of the owner thereof.

(2) An Order by which a firing range is established under subsection (1) shall specify the boundaries of such range.

Use of firing ranges. **3.** (1) Any firing range may be used for such firing practice, and by such naval, military or air force of Sri Lanka, as the Minister may by general or special Order determine.

[§ 2, 20 of 1979.] (2) (a) Any naval, military or air force of any country other than Sri Lanka may, with the prior written sanction of the Minister, use

(b) Any member of the Sri Lanka Police Force or of a rifle association in Sri Lanka may, with the prior written sanction of the Secretary to the Ministry charged with the subject of Defence, use any firing range for such firing practice, during such period, and subject to such conditions, as may be specified by such Secretary.

**PART II**

**MILITARY TRAINING**

**4.** (1) The Minister may by Order, with the concurrence of the Minister in charge of the subject of State Lands, authorize the use of any State land for the purposes of military training and, with the written consent of the owner, authorize the use of any other land for such purposes. Use of land, otherwise than as a firing range, for military training.

(2) An Order under subsection (1) in respect of any land shall not authorize or be deemed to authorize the use of that land as a firing range.

**5.** (1) Military manoeuvres for the purposes of military training may be executed— Execution of military manoeuvres.

(a) on any land in respect of which an Order under section 4 is in force, or

(b) in any area in respect of which an Order under subsection (2) of this section is in force.

## **Cao. 631] FIRING RANGES AND MILITARY TRAINING**

(2) The Minister may by Order (hereinafter referred to as a "military manoeuvres Order") authorize the execution of military manoeuvres for the purposes of military training by any such forces, within any such area, and during any such period not exceeding one month, as may be specified in the Order:

Provided, however, that where military manoeuvres have been executed within any area in pursuance of any such Order, that area or any part thereof shall not within the period of three years from the date of that Order, be again specified in any subsequent Order unless the written consent of the owners of the lands situated within that area or part is obtained.

(3) The Minister may by a military manoeuvres Order authorize the execution of military manoeuvres by any force of any country other than Sri Lanka.

(4) The Minister shall specify in every military manoeuvres Order such lands, roads and sources of water in the authorized area as may be determined, in the manner hereafter provided in this Act, to be the lands, roads and sources of water which the authorized forces may use during the period of execution of military manoeuvres.

(5) If the Minister intends to make a military manoeuvres Order in respect of any area, a copy of a draft of the intended Order shall, not less than six months before the date on which the Order is intended to be made, be sent to every local authority within that area.

(6) Every military manoeuvres Order and a copy of every draft Order prepared for the purposes of subsection (5) shall be published in the Gazette and in one Sinhala newspaper, one Tamil newspaper and one English newspaper circulating generally within the area to which the Order or draft Order relates.

(7) Where a military manoeuvres Order is made but no military manoeuvres are executed thereunder, this section shall have effect as if no such Order had been made.

6. (1) After a military manoeuvres Order is made, the authorized forces may, within the authorized area and during the authorized period and subject to the provisions of subsection (2)—

Powers exercisable for purposes of military manoeuvres.

(a) pass over, and encamp, construct such military works as are not of a permanent character, and execute military manoeuvres on any authorized land,

(b) use any authorized road, and

(c) supply themselves with water from any authorized source of water and, for that purpose, dam up any running water.

(2) The provisions of subsection (1) shall not authorize—

(a) the entry into or interference with (except to the extent of using any authorized road) any dwelling house, place of worship, school, factory, workshop, store, or premises used for the carrying on of any trade, business, or manufacture, or any farm yard, garden, orchard, pleasure ground or nursery ground, burial ground, or ground attached to any dwelling house, place of worship, or school; or

(b) the damming up of any running water so as to interfere with the cultivation of any land or the carrying on of any trade, business or manufacture; or

(c) the taking of water from any authorized source of water without allowing such supply of water as may be reasonably required by those entitled to obtain water from that source; or

(c) the destroying, defacing or damaging of, or the tampering with, any shrine or place of worship, or any tomb or monument, or any antiquity as defined in the Antiquities Ordinance, or any picturesque or valuable timber or other natural features of exceptional interest or beauty.

(3) The officer in command of the authorized forces shall have power to prevent persons from trespassing on, or damaging property in, the authorized area.

(4) The officer in command of the authorized forces shall cause all lands used for military manoeuvres to be restored, as soon and as far as practicable, to their previous condition.

(5) Subject to the provisions of this Act with respect to—

- (a) the closing of authorized roads,
- (b) the obstruction of, or interference with, military manoeuvres, and
- (c) entering, or remaining in, a camp,

nothing in this Act shall prejudicially affect any public right.

Power to close authorized roads.

7. (1) The officer in command of the authorized forces may, if it is considered necessary for the execution of military manoeuvres, cause any authorized road to be closed to traffic for such period not exceeding twenty-four hours as he may determine, and shall, if he causes any such road to be so closed, give all reasonable facilities for traffic during the closure.

(2) Where the officer in command of the authorized forces intends to close any authorized road to traffic, he shall cause public notice of his intention to do so to be given not less than twenty-four hours before the commencement of the closure.

(3) Every police officer shall, on being requested to do so, assist the officer in command of the authorized forces to effect the closure of any authorized road to traffic under this section.

Military Manoeuvres Commission.

8. (1) Where a military manoeuvres Order is intended to be made, the Minister shall appoint a Military Manoeuvres Commission (hereinafter referred to as the "commission") consisting of—

- (a) a chairman who shall be the Government Agent of the administrative district, within which lies the area to which the Order is intended to apply,

(b) a secretary who shall be an officer nominated by the Commander of the Army, and

(c) the following other members :—

(i) the Mayor or Chairman of every local authority within the aforesaid area; and

(ii) an officer representing the forces to whom the Order is intended to apply, such officer being nominated, where those forces consist of or include military forces, by the Commander of the Army and, in any other case, by the Commander of the Navy or the Commander of the Air Force according as the forces to whom the Order is intended to apply are only naval forces or only air forces.

(2) The commission shall determine what lands, roads and sources of water within the area in respect of which a military manoeuvres Order is intended to be made by the Minister shall be authorized by the Minister to be used, during the period of the execution of military manoeuvres, by the forces engaged in such manoeuvres, and shall in writing report their determination to the Minister.

(3) No determination shall be made and reported to the Minister under subsection (2) until the commission has complied with the succeeding provision of this section.

(4) The commission shall—

- (a) transmit to every local authority, and every divisional Assistant Government Agent, within the area referred to in subsection (2), a draft of the determination intended to be made by the commission under that subsection, together with a notice stating that objections to such intended determination may be preferred in writing to the secretary to the commission and requiring the grounds of objections to be mentioned and specifying a period

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of not less than thirty days within which the objections must be made, and

(b) cause a copy of such draft and of such notice to be published twice in the Gazette and in one Sinhala newspaper, one Tamil newspaper and one English newspaper circulating generally in the aforesaid area.

(5) The commission shall consider all objections made within the period allowed therefor by the notice under subsection (4), and may, if the commission considers it necessary, hold any public sittings and allow any person who has made any such objection to adduce evidence in support thereof.

### PART III

#### COMPENSATION

Compensation.

9. Where in consequence of firing practice on any firing range established under section 2, or of military training carried out on any land to which an Order under section 4 applies, or of military manoeuvres executed under a military manoeuvres Order—

(a) any injury or damage is caused to person or property, or

(b) any damage by reason of excessive weight or extraordinary traffic is caused to any road, or

(c) any unlawful interference with any right is caused, or

(d) any expenses are reasonably incurred in protecting person, property or rights,

full compensation for such injury, damage or interference and the amount of such expenses shall be paid out of money to be provided by Parliament. Any amount payable under this section either as such compensation or as such expenses is hereinafter referred to as "compensation".

10. (1) All claims for compensation under section 9 shall be made in writing to the Government Agent.

Claims for compensation.

(2) The Government Agent shall permit the claimants for compensation to adduce evidence in support of their claims.

11. The Government Agent shall consider each claim for compensation under section 9 and shall in writing communicate his decision to the claimant.

Government Agent to decide claims for compensation.

12. Where any compensation under section 9 is payable to a claimant for compensation, the Government Agent shall determine the amount of the compensation and shall tender that amount to that claimant.

Tender of compensation.

13. (1) Where any person is aggrieved by the rejection of his claim for compensation under section 9 or is dissatisfied with the amount of compensation tendered to him, he may, within thirty days after the receipt by him of a letter from the Government Agent communicating the rejection of the claim or within thirty days after the tender of compensation to him, prefer a written appeal against the decision of the Government Agent to the board of review (hereinafter referred to as the "board") constituted under the Land Acquisition Act. The Government Agent shall be made respondent to such appeal.

Appeal against decision of Government Agent.

(2) The board shall hear and determine every appeal duly made under this section.

(3) The provisions of section 24 and of subsections (1), (2), (4) and (5) of section 25 of the Land Acquisition Act shall apply in relation to every appeal made to the board under this section subject to the modification that subsection (4) of the aforesaid section 25 shall have effect as though the words and figures "against an award made under section 17" were omitted therefrom and as though, for the words "acquiring officer who made such award" occurring in the proviso to that subsection, there were substituted the words "Government Agent".

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Finality of decision of the board.

14. Save as provided in section 15, the decision of the board on every appeal made under section 13 shall be final and shall not be called in question in any court.

or is of unsound mind, that sum may be paid, for his benefit, to any other person who is maintaining him or may, if he is a minor, be paid to him.

Appeal against decision of board to Court of Appeal on question of law.

15. Section 28 of the Land Acquisition Act, which enables an appeal to be made on a question of law to the Court of Appeal against a decision of the board, shall apply in relation to the board's decision on any appeal made to the board under this Act subject to the modification that the aforesaid section 28 shall have effect as though—

(4) Where any sum payable as compensation under this Act to a person who is a minor or is of unsound mind exceeds one hundred rupees or is not paid in the manner permitted by subsection (3), that sum shall, for the benefit of that person, be paid into the District Court or the Primary Court having jurisdiction over the place where that person resides, according as that sum exceeds or does not exceed one thousand five hundred rupees.

(a) the proviso to subsection (1) of that section were omitted,

(b) all the words from " On determining " to " preferred " were omitted from subsection (5) of that section, and

(c) in the proviso to the aforesaid subsection (5), there were substituted, for all the words from "acquiring officer" to the end of that proviso, the words " Government Agent ".

## PART IV

### GENERAL

Manner of payment of compensation.

16. (1) The amount of compensation awarded to a person by the Government Agent under this Act or, if in lieu of that amount a new amount is allowed as compensation to that person by a final decision on an appeal to the board or by a decision on an appeal to the Court of Appeal, that new amount shall be paid to that person by the Government Agent if that person consents to receive it.

17. (1) The Minister may make all such Regulations. regulations as may be necessary for the purpose of carrying out the provisions or giving effect to the principles of this Act.

(2) In particular and without prejudice to the powers conferred by subsection (1), the Minister may make regulations—

(a) for regulating the use under this Act of any firing range for firing practice, or of any land for military training other than military manoeuvres, or of any land or area for military manoeuvres, in such manner as to secure the public against danger arising from such use, and

(b) for prohibiting intrusion on, and obstruction of, firing ranges.

(2) Where any person to whom compensation is payable under this Act declines to receive it or is dead or cannot be found after diligent search, that compensation shall be paid into the District Court or the Primary Court having jurisdiction over the place where that person is known to have last resided, according as the amount of that compensation exceeds or does not exceed one thousand five hundred rupees, to be drawn by the person entitled thereto.

(3) Every regulation made by the Minister under subsection (1) shall be published in the Gazette and shall come into operation on the date on which it is so published.

(3) Where a sum not exceeding one hundred rupees is payable as compensation under this Act to any person who is a minor

(4) Every regulation published in the Gazette under subsection (3) shall, as soon as practicable, be submitted for approval to Parliament. If Parliament refuses to approve such regulation, it shall, without prejudice to the validity of anything

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previously done thereunder or to the making of any new regulation, be deemed to be rescinded on the date on which approval is refused.

(5) Notification of—

(a) the approval of any regulation under this section by Parliament, and

(b) the date on which any regulation is deemed to be rescinded under subsection (4),

shall be published in the Gazette.

Offences.

**18.** (1) If, within the area and during the period specified in a military manoeuvres Order, any person—

(a) wilfully and unlawfully obstructs or interferes with the execution of military manoeuvres, or

(6) without due authority enters or remains in a camp,

he shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding twenty-five rupees, and he and any animal or vehicle under his charge which is within the aforesaid area may be removed by any police officer or by, or by the order of, any commissioned officer of the authorized forces.

(2) If, within the area and during the period referred to in subsection (1), any person—

(a) without due authority moves any flag or other mark distinguishing, for the purposes of military manoeuvres, any land, or

(b) maliciously cuts or damages any telegraph wire laid by or for the use of the authorized forces, or

(c) erects or displays any notice or mark on or relating to any authorized land or authorized source of water, representing or implying that the use of such land or source of water by the authorized forces is not authorized,

he shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty rupees.

(3) Every person who contravenes any regulation made under this Act shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred rupees.

**19.** (1) In this Act unless the context otherwise requires—

"authorized area" means the area specified in a military manoeuvres Order as an area within which military manoeuvres are authorized to be executed;

"authorized forces" means forces authorized by a military manoeuvres Order to execute military manoeuvres;

"authorized lands" means lands specified in a military manoeuvres Order as lands which may be used by the authorized forces during the period of execution of military manoeuvres;

"authorized roads" means roads specified in a military manoeuvres Order as roads which may be used by the authorized forces during the period of execution of military manoeuvres ;

"authorized sources of water" means sources of water specified in a military manoeuvres Order as sources of water from which the authorized forces may obtain water for their use during the period of execution of military manoeuvres ;

"firing practice" means field firing or artillery practice or air armament practice or naval bombardment practice or the practice of the use of any other weapon or missile of war;

"local authority" means any Municipal Council, Urban Council, Town Council, or Village Council, or any other institution which may

hereafter be established by law for the purposes of local self-government with power to enforce and levy a rate on property;

" Minister " means the Minister in charge of the subject of Defence ;

" property " includes animals;

" road " includes a footpath; and

" visiting force " has the same meaning as in the Visiting Forces Act.

(2) In Part III of this Act, " Government Agent " means the Government Agent of the administrative district in which the injury, damage, interference or expenses for which compensation is payable under section 9 occurred or were incurred, and includes an Assistant Government Agent.

**CHAPTER 546**

**FOOD SUPPLIES**

*Ordinance*  
No. 30 of 1947,  
*Acts*  
Nos. 42 of 1949,  
14 of 1953,  
7 of 1955,  
30 of 1957.

AN ORDINANCE TO MAKE PROVISION FOR SO MAINTAINING, CONTROLLING AND REGULATING THE SUPPLY OF ARTICLES OF FOOD AS TO SECURE THEIR SUFFICIENCY-THEIR EQUITABLE DISTRIBUTION AND THEIR AVAILABILITY AT FAIR PRICES, AND FOR THAT PURPOSE TO TAKE POWER TO REQUISITION ARTICLES OF FOOD AND TO PAY COMPENSATION IN RESPECT OF ANY ARTICLE SO REQUISITIONED. AND TO PROVIDE FOR THE IMPORTATION OF CERTAIN ESSENTIAL ARTICLES OF FOOD SOLELY BY OR ON BEHALF OF THE STATE; AND TO MAKE PROVISION FOR OTHER MATTERS CONNECTED WITH, OR INCIDENTAL TO, THE PURPOSES AFORESAID.

[2nd July, 1947.]

Short title.  
[§ 2, 30 of  
1957.]

**1.** This Ordinance may be cited as the Food Supplies Ordinance,

directions as appear to him to be necessary or expedient in connexion with the requisitioning thereof.

Appointment  
of  
Commissioner  
of Food  
Supplies and  
competent  
authorities.

**2.** (1) There may be appointed, by name or by office—

(2) (a) Where the Minister is satisfied that it is necessary or expedient so to do for the purpose of facilitating the requisitioning of any quantity of any scheduled article grown or produced in Sri Lanka, the Minister may by Notification published in the Gazette declare that the provisions of this subsection shall apply in the case of that article.

(a) a person to be or to act as Commissioner of Food Supplies ;

(b) a person or each of two or more persons, to be or to act as a competent authority for the purposes of this Ordinance ; and

(c) such other officers and servants as may be necessary for the purposes of this Ordinance.

Every scheduled article in respect of which any such Notification is in force is hereinafter referred to as a "special scheduled article".

(2) Every competent authority appointed under subsection (1) shall be subject to the general direction and control of the Commissioner.

(b) The power to requisition conferred by subsection (1) may, in relation to any special scheduled article, be exercised by a competent authority by means of a general order made as respects any specified area; and the competent authority may in any such order—

(3) The Commissioner may exercise or perform any of the powers or duties of a competent authority under this Ordinance.

Requisitioning  
of articles of  
food.

**3.** (1) For the purpose of so maintaining, controlling and regulating the supply of articles of food as to secure their sufficiency or their equitable distribution or their availability at fair prices, a competent authority may, if it appears to him to be necessary or expedient, requisition any quantity of any article of food and give such

(i) declare the quantity of the special scheduled article so requisitioned from persons of any specified class or description to be a specified proportion of the total quantity grown or produced by each such person or on his behalf during a specified period or on a specified occasion, or to be a quantity



determined at a specified rate per acre of the land cultivated by him or on his behalf for the purposes of the growth or production of that article ;

- (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 shall, if required so to do by an officer authorized for the purpose in the order, deliver to such officer at such place the quantity of that article requisitioned by the order.

(c) An order may be made under paragraph (b) notwithstanding that the special scheduled article to which it relates may not have been harvested or produced at the time of the making of the order; and the provisions of the order shall, in each case to which it applies, be complied with when the article is harvested or produced.

(d) The making of an order under this subsection in relation to any special scheduled article shall not affect or prejudice the power of a competent authority to requisition that article otherwise than in the manner provided by the order, or to requisition from any person any quantity of that article in addition to the quantity requisitioned from him by the order.

(3) Where a competent authority requisitions any quantity of any article of food under this section he may use or deal with, or authorise 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.

(4) A competent authority 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 the order applies, any quantity of any such article of food as may be described in the order, shall remove that quantity or cause or permit it to be removed from the premises 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 of food was, is, or will be on the premises, and if so, the quantity or estimated quantity of such article which was, is, or will be on the premises on that day, according as the order may direct.

(5) Any officer of police or any other officer of Government who is requested so to do by the competent authority shall aid and assist the competent authority in the exercise of his powers under the preceding provisions of this section.

(6) Every person who contravenes or fails to comply with any direction given or requirement imposed under this section 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 such imprisonment.

4. (1) During the continuance in force of this Ordinance, no person, other than a person acting for or on behalf of the State, shall import into Sri Lanka any quantity of any scheduled article.

State to be the sole importer of scheduled articles of food.

- (2) The Minister may, by Order published in the Gazette, amend the

Schedule in any manner which appears to him to be expedient, and in particular may—

(a) add to the Schedule any article of food which in the opinion of the Minister is essential for the vital needs of the community; or

(b) take out any article from the Schedule.

(3) The provisions of subsection (1) shall be read and construed as one with the Customs Ordinance.

5. (1) Where any quantity of any article of food has been requisitioned under this Ordinance, compensation assessed in accordance with the following provisions of this section shall be paid in respect of the requisition of that quantity.

(2) Subject to the provisions of subsection (3), the compensation payable under this section in respect of the requisition of any quantity of any article of food shall be a sum equal to the price which the person who, immediately before the requisition, was the owner of that quantity might reasonably have been expected to obtain upon a sale of that quantity then effected by him, regard being had to the condition of the goods at that time.

(3) Any compensation under this section shall not—

(a) in a case where the owner of the article immediately before the requisition was a person who had produced the article with a view to the sale thereof, exceed the aggregate of—

(i) the cost reasonably incurred by that person in producing that article; and

(ii) such amount, not exceeding ten *per centum* of the cost referred to in sub-paragraph (i) of paragraph (a) of this subsection, as may be determined by the competent authority as the profit which

such owner might reasonably have been expected to make on a sale of that article immediately before the requisition if the supply of, and the demand for, that article were then normal,

or

(b) in a case where the owner of the article immediately before the requisition was a person (other than the producer of the article) who being a dealer therein had purchased or obtained the article with a view to the sale thereof in the ordinary course of trade or business, exceed the aggregate of—

(i) the price which it was reasonable for him to pay for the commodity when it was so bought by him ; and

(ii) such amount, not exceeding ten *per centum* of the price referred to in sub-paragraph (i) of paragraph (b) of this subsection, as may be determined by the competent authority as the profit which such owner might reasonably have been expected to make on a sale of that article immediately before the requisition if the supply of, and the demand for, that article were then normal,

and in assessing such compensation in any other case no account shall be taken of any profit which might be expected to be made on the sale of the article :

Provided that if, at the time when the article is requisitioned the price or maximum price at which such article may be sold is fixed by law, this subsection shall not be taken to authorize the assessment, by way of compensation in respect of the requisition, of a sum exceeding that price or maximum price as the case may be.

In this subsection the reference to a person who had produced any article of food with a view to the sale thereof and the reference to the producer of the article shall

Compensation in respect of requisition of articles of food.

be construed as including a reference to his personal representative or any person carrying on business in succession to him by virtue of any assignment or transmission by operation of law.

(4) The compensation payable under this section in respect of the requisition of any article of food shall include a sum equal to the amount of any expenses reasonably incurred for the purposes of compliance with any directions given in connexion with the requisition.

(5) Any compensation assessed under subsection (2) shall accrue due at the time of the requisition of the article of food and shall be paid to the person who is then the owner thereof.

(6) Any compensation assessed under subsection (4) shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred and shall be paid to the person by whom or on whose behalf those expenses were incurred.

Determination of claims by tribunal in default of agreement.

6. (1) For the purposes of this Ordinance, there shall be a tribunal consisting of three persons appointed by the Minister.

(2) Any dispute as to whether any compensation is payable under this Ordinance, or as to the amount of any compensation so payable, shall, in default of agreement, be referred to and be determined by the tribunal constituted under this section; and the decision of that tribunal shall be final:

Provided that at any stage in proceedings before it the tribunal may, and, if so directed by the Court of Appeal, shall, state in the form of a special case for the opinion of that court any question of law arising in the course of the proceedings.

Incidental powers of tribunal.

7. The tribunal constituted under section 6 shall have the following powers, that is to say :—

- (a) to order persons to attend and give evidence and to produce and give discovery and inspection of documents, with the same powers

and in like manner as a District Court;

- (b) to award and assess, or direct the assessment of, such sums by way of costs as the tribunal in its discretion thinks just, and in particular to award costs to an unsuccessful claimant where such an award appears to the tribunal to be justified on the merits of the case ;
- (c) to call in the aid of one or more assessors specially qualified, and hear any claim wholly or partly with their assistance;
- (d) to appoint an expert or experts to report on any matter material to the hearing of any claim;
- (e) to determine, subject to the approval of the Minister, the remuneration, if any, of such assessors and experts;
- (f) to make, with the concurrence of the Minister in charge of the subject of Justice, rules prescribing the procedure for notifying, presenting and hearing claims and all matters incidental thereto.

8. Any compensation under this Ordinance shall carry interest, as from the date on which it accrues due until payment, at such rate not exceeding five *per centum* per annum as the Minister with the concurrence of the Minister in charge of the subject of Finance may, from time to time, by order prescribe.

Interest on compensation.

9. No claim for any compensation under this Ordinance shall be entertained unless notice of the claim has in such form and manner as may be prescribed by the competent authority been given to the competent authority within the period of six months beginning with the date on which the compensation accrues due.

Limitation of time for claiming compensation.

10. In the event of any conflict or inconsistency between the provisions of this Ordinance and the provisions of any other written law, the provisions of this Ordinance shall prevail.

Construction.

**FOOD SUPPLIES**

**[Cap. 546**

Interpretation. **11.** In this Ordinance—

[§ 3, 30 of 1957.]

"article of food" includes any article of food for animals;

"Commissioner" means the Commissioner of Food Supplies appointed under section 2 ;

" requisition", with its grammatical variations and cognate expressions,

means, in relation to any quantity of any article of food, "take possession of that quantity or require that quantity to be placed at the disposal of the competent authority ";

scheduled article " means an article of food for the time being specified in the Schedule hereto.

SCHEDULE

[Section 11.]

Paddy.  
Wheal-

CHAPTER 539

GAS

*Ordinances* AN ORDINANCE RELATING TO THE SUPPLY OF GAS TO MUNICIPAL AND OTHER  
 Nos. 1 of 1869, TOWNS IN SRI LANKA.  
 15 of 1926,  
 61 of 1939,  
 3 of 1946,  
 29 of 1947.

[111h January, 1869.]

Short title. 1. This Ordinance may be cited as the Gas Ordinance.

Interpretation. 2. The following words and expressions in this Ordinance shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction :—

" company " shall include a person;

" street " shall include any square, court, alley, highway, lane, thoroughfare, or public passage or place.

Company may be empowered to construct the necessary gasworks. 3. It shall be lawful for the Minister, if it shall appear to his satisfaction that a company is in a position to undertake, with advantage to the public, to supply any Municipal town in Sri Lanka with gas, to empower, by Order to be for that purpose issued and published in the Gazette, such company to construct the necessary works for supplying any town named in the said Order with gas.

Extension of company's operations outside a Municipal town. 4. (1) The Minister may, from time to time, by Order published in the Gazette—

(a) authorize any company to construct the necessary works for supplying with gas any area specified in the Order being outside a Municipal town, and declare that all or any of the provisions of this Ordinance and of the Gas Meter Ordinance, shall apply to such area in like manner as they apply to a Municipal town;

(b) declare what authority or person shall, as respects such area, have and exercise the several rights,

privileges, and powers, and perform the duties, which by this Ordinance or the Gas Meter Ordinance, are vested in or imposed on the Municipal Council or any officer thereof;

(c) declare to what authority or person shall be given any notice required by this Ordinance or the Gas Meter Ordinance, to be given to the Municipal Council or any officer thereof;

(d) declare, as respects such area, out of what fund the expenses and remuneration referred to in section 13 of the Gas Meter Ordinance, are to be paid ;

(e) authorize any Urban Council or Town Council to enter into a contract with and pay the company for the company to light by gas the area within its jurisdiction or any part thereof.

(2) Every Order under this section shall, as soon as conveniently may be, be laid before Parliament, and may at any of the next three meetings of Parliament be disallowed by resolution of Parliament, and if so disallowed shall be annulled.

5. The said company so empowered, and its agents, servants, and workmen, shall thereupon be entitled to open and break up the soil and pavement of the several streets and bridges in the town or place in which it is declared entitled, by the said Order, to establish gasworks, and to open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same pipes,

Power to break up streets, &c., under superintendence and to open drains.

conduits, service pipes, and other works, and from time to time repair, alter, or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the making of the gas; and for the purposes aforesaid to remove and use all earth and materials in and under such streets and bridges; and in such streets to erect any pillars, lamps, and other works. and do all other acts which the said company shall, from time to time, deem necessary for supplying gas to the inhabitants of the said town or place and its environs, doing as little damage as may be in the execution of the powers hereby granted and making compensation for any damage which may be done in the execution of such powers.

such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by the Municipal Council of the town or place; and such Council may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the said company to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain:

Company not to enter on private land without consent.

6. Provided always that nothing herein shall authorize or empower the said company to lay down or place any pipe or other works into, through, or against any building, or in any land not dedicated to public use, without the consent of the owners and occupiers thereof, except that the said company may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe has been already lawfully laid down or placed in pursuance of this Ordinance and may repair or alter any pipe so laid down.

Provided always that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the said company's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said company may perform the work specified in such notice without the superintendence of such persons or their officer.

If persons having the control fail to superintend, company may proceed with the work.

Notice to be served on persons having control, &c., before breaking up streets or opening drains.

7. Before the said company proceed to open or break up any street, bridge, sewer, drain, or tunnel they shall give to the Municipal Council for the town named in the Order as aforesaid, or other persons under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

9. When the said company open or break up the road or pavement of any street or bridge, or any sewer or tunnel, they shall, with all convenient speed, complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such road or pavement where the same shall be open or broken up, every night during which the same shall be continued open or broken up; and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Streets broken up to be reinstated without delay.

Streets or drains not to be broken up except under superintendence of persons having control of the same.

8. No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up except under the superintendence of the persons having the control or management thereof, or of their officer, and according to

Penalty for delaying in reinstating streets.

10. If the said company open or break up any street or bridge, or any sewer, drain, or tunnel without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the said company are hereby authorized to perform such works without any superintendence or notice ; or if the said company make any delay in completing any such work, or in filling in the ground or reinstating and making good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, or in carrying away the rubbish occasioned thereby; or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of three months next after the same shall have been made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such default is made a sum not exceeding fifty rupees for every such offence, and they shall forfeit an additional sum not exceeding fifty rupees for each day during which any such delay aforesaid shall continue after they shall have received notice thereof.

In case of delay other parties may reinstate and recover the expense.

11. If any such delay or omission as aforesaid take place the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission shall take place may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the said company ; and the amount of such expense shall, in case of any dispute about the same, be ascertained by the Municipal Council of the town or place, and shall be certified to by the Mayor or secretary thereof, and if the company should fail to pay the same within a week after notice thereof, the amount appearing in the certificate shall be recovered by a Magistrate's Court as if it were a fine imposed by such court whether or not such amount shall exceed the sum which a Magistrate's Court has jurisdiction to award by way of fine.

Expense how to be ascertained and recovered.

12. The clerk, engineer, or other officer duly appointed for the purpose by the said company may at all reasonable times enter any building or place lighted with gas supplied by the said company in order to inspect the meters, fittings, and works for regulating the supply of gas, and for the purpose of ascertaining the quantity of gas consumed or supplied; and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time, he shall, for every such offence, forfeit to the said company a sum not exceeding fifty rupees.

Power to enter buildings for ascertaining quantity of gas consumed.

13. If any person supplied with gas, or any person to whom any meter or fitting shall have been let for hire by the said company, neglect to pay the rent due for the same to the said company, the said company may stop the gas from entering the premises of such person, by cutting off the service pipes, or by such means as the said company shall think fit, and recover the rent due from such person, together with the expenses of cutting off the gas, by action in any court of competent jurisdiction.

Recovery of rent due for gas.

14. In all cases in which the said company are authorized to cut off and take away the supply of gas from any house or building or premises under the provisions of this Ordinance, the said company, their agents or workmen, after giving twenty-four hours' previous notice to the occupier, may enter into any such house, building, or premises, between the hours of nine in the forenoon and four in the afternoon, and remove and carry away any pipe, meter, fittings, or other works, the property of the said company.

Power to take away pipes when supply of gas discontinued.

15. Any meter or fitting let for hire by the said company shall not be subject to distress for rent or revenue or any rate due upon the premises where the same may be used, nor be taken in execution under any process of a court or any proceeding in insolvency against the person in whose possession the same may be.

Meters not liable to distress for rent, &c.

16. Every person who shall lay, or cause to be laid, any pipe to communicate with any pipe belonging to the said company, without their consent, or shall fraudulently injure any such meter as aforesaid, or who, in

Penalty for fraudulently using gas.

case the gas supplied by the said company is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the said company, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or shall otherwise improperly use or burn the gas, or shall supply any other person with any part of the gas supplied to him by the said company, shall forfeit to the said company the sum of fifty rupees for every such offence, and also the sum of twenty rupees for every day such pipe shall so remain, or such works or burner shall be so used, or such excess be committed or continued, or such supply furnished; and the said company may take off the gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into.

17. Every person who shall wilfully remove, destroy, or damage any pipe, pillar, post, plug, lamp, or other work of the said company for supplying gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the gas supplied by the said company, shall for each such offence forfeit to the said company any sum not exceeding fifty rupees in addition to the amount of the damage done.

18. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the said company, or under their control, shall pay such sum of money by way of satisfaction to the said company for the damage done, not exceeding fifty rupees, as any Magistrate's Court shall think reasonable.

19. If the said company shall at any time cause or suffer to be brought or to flow into any stream, reservoir, aqueduct, pond, or place of water, or into any drain communicating therewith, any washing or other substance produced in making or supplying gas, or shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream, reservoir, aqueduct, pond, or place for water shall be fouled, the said company

shall forfeit for every such offence a sum not exceeding one thousand rupees; and they shall forfeit an additional sum not exceeding five hundred rupees for each day during which such washing or other substance shall be brought or shall flow, or the act by which such water shall be fouled shall continue after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the said company by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby: and such penalties shall be paid to such last-mentioned person.

20. Whenever any gas shall escape from any pipe laid down or set up by or belonging to the said company, they shall immediately after receiving notice thereof in writing prevent such gas from escaping; and in case the said company shall not, within twenty-four hours next after service of such notice, effectually prevent the gas from escaping and wholly remove the cause of complaint, they shall for every such offence forfeit the sum of fifty rupees for each day during which the gas shall be suffered to escape after the expiration of twenty-four hours from the service of notice.

21. Whenever any water shall be fouled by the gas of the said company they shall forfeit, to the person the water used by whom shall be so fouled, for every such offence a sum not exceeding two hundred rupees, and a further sum not exceeding one hundred rupees for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

22. For the purpose of ascertaining whether such water be fouled by the gas of the said company, the person to whom the water supposed to be fouled shall belong may dig up the ground and examine the pipes, conduits, and works of the said company:

Provided that such person, before proceeding so to dig and examine, shall give twenty-four hours' notice in writing to the said company of the time at which such

Daily penalty during the continuance of the offence.

Daily penalty during escape of gas after notice.

Penalty if water be fouled by gas.

Power to examine gas pipes to ascertain cause of water being fouled.

Penalty for wilfully damaging pipes.

Satisfaction for accidentally damaging pipes.

Penalty for causing water to be corrupted.



digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement, or place where such digging is to take place, and they shall be subject to the like obligation of reinstating the said road and pavement, and the same penalties for delay, or any nonfeasance or misfeasance therein, as are hereinbefore provided with respect to roads and pavements broken up by the said company for the purpose of laying their pipes.

Expenses to abide result of examination.

**23.** If upon any such examination it appear that such water has been fouled by any gas belonging to the said company the expenses of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the said company ; but if upon such examination it appear that the water has not been fouled by the gas of the said company, the person causing such examination to be made shall pay all such expenses, and shall also make good to the said company any injury which may be occasioned to their works by such examination.

How expenses to be ascertained.

**24.** The amount of the expenses of every such examination and repair, and of any injury done to the said company, shall in case of any dispute about the same. together with the costs of ascert.cimmg and recovering the same, be ascertained and recovered in the manner prescribed for the ascertainment and recovery of expenses in section 11 of this Ordinance.

Liability to indictment for nuisance.

**25.** Nothing in this Ordinance contained shall prevent the said company from being liable to an indictment for nuisance or to any other legal proceedings to which they may be liable in consequence of making or supplying gas.

**26.** A copy of the original deed of association of the company formed as aforesaid, and of every other instrument registered under the law, under which such company may be formed as constituting the regulations of the said company, and a copy of every special resolution of a general meeting whereby any change shall have been or at any time shall be made in the regulations of the said company, shall be kept at the office of the said company in the town or place where the gasworks are established, and shall there be open to the inspection of all persons during the usual hours of business of the said office; and a copy of such original deed of association and of every other such instrument, and of every special resolution as aforesaid, shall also be deposited by the said company as soon as it can be done after the passing of this Ordinance, or after the making of any such special resolution hereafter to be made, in the office of the Registrar of Companies, and shall there be filed ; and an examined copy of any such filed copy as aforesaid, certified by and under the hand of the Registrar of Companies, shall be good and sufficient evidence of each such original deed, instrument, or special resolution in all actions, suits, and proceedings whatsoever, whether civil or criminal, to be had in any Court of Justice, or before any Magistrate or revenue or other officer, and whether acting judicially or in any proceeding preliminary to a judicial inquiry throughout Sri Lanka.

Copies of the original deed of association and of all rules, &c., to be kept for inspection at the office of the company in the town or place where the gasworks are established, and in the office of the Registrar of Companies.

**27.** All services of process, and all notices whatsoever, which by law or by the practice of any court wherein the said company shall sue or be sued are required to be made, served, or given for any purpose whatsoever to the said company, shall and may be made, served, and given, in addition to all ways and means by which the same may otherwise be legally made, served, and given, by leaving the same, addressed to the managing agent of the said company, at the office of the said company,

Service of process.

CHAPTER 59

GAMING

Ordinances AN ORDINANCE TO PROVIDE FOR THE MORE EFFICIENT SUPPRESSION OF UNLAWFUL  
Nos. 17 of 1889, GAMING AND OF COMMON GAMING PLACES.  
37 of 1917,  
3 of 1946,

Acts  
Nos. 26 of 1957,  
48 of 1961.

[30th June, 1890.]

Short title. 1. This Ordinance may be cited as the Gaming Ordinance.

Unlawful gaming an offence. 2. Whoever commits unlawful gaming shall be punished with fine not exceeding one hundred rupees, or with rigorous imprisonment for a term which may extend to six months, or with both.

Keeping, permitting to be kept, or managing a common gaming place an offence. 3. Whoever—  
(a) being the owner or occupier, or having the use temporarily or otherwise thereof, keeps or uses a place as a common gaming place; or  
(b) permits a place, of which he is owner or occupier, or of which he has the use temporarily or otherwise, to be kept or used by another person as a common gaming place; or  
(c) has the care or management of, or in any manner assists in the management of, a place kept or used as a common gaming place,

shall be punished with fine not exceeding five hundred rupees, or with rigorous imprisonment for a term which may extend to one year, or with both.

Power to prohibit the importation of certain instruments or appliances. [§2, 26 of 1957.] 3A. (1) The Minister may, by Order published in the Gazette, prohibit the importation into Sri Lanka of any instrument or appliance that may be used for the playing of any game of chance or of mixed chance and skill.

(2) The provisions of this section shall be read and construed as one with the Customs

Ordinance, and, for the purpose of the application of that Ordinance, any instrument or appliance the importation of which is prohibited by Order made under subsection (1) shall be deemed to be goods the importation of which is prohibited by enactment.

(3) No Order made by the Minister under subsection (1) shall come into force until it has been approved by Parliament.

3B. (1) No person shall possess or manufacture any instrument or appliance the importation of which is prohibited by Order made under subsection (1) of section 3A.

Prohibition of the possession or manufacture of instruments or appliances the importation of which is prohibited. [§2.26 of 1957.] [§2.48 of 1961.]

(2) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and shall, on conviction, 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.

3C. (1) Where in any proceedings in any court it has to be determined whether any instrument or appliance is an instrument or appliance the importation of which is prohibited by Order made under subsection (1) of section 3A, a certificate under the hand of the officer who is or is acting as, the Government Factory Engineer to the effect that the first-mentioned instrument or appliance is an instrument or appliance the importation of which is prohibited by such Order shall be received in those proceedings as conclusive evidence of the facts stated therein.

Conclusive evidence of the fact that an instrument or appliance is one the importation of which is prohibited by Order made under subsection (1) of section 3A. [§3.48 of 1961.]

(2) The officer who issues a certificate under subsection (1) shall not be examined or cross-examined with respect to that certificate.

(3) Every certificate issued under subsection (1) shall be in the following form :—

I, ..... Government Factory Engineers/Acting Government Factory Engineer, do hereby certify that I have examined the instrument or appliance marked.....and that it is an instrument or appliance the importation of which is prohibited by the Order made under subsection (1) of section 3A of the Gaming Ordinance and published in Gazette No. t.....oft.-.....,

Signature:.

Date:.....

- \* Delete inapplicable words.
f State the number of the Gazette.
t State the date of the Gazette.

4. All grama seva niladharies and police officers and all Municipal Council, Urban Council and Town Council inspectors are authorized to arrest and to take before the Magistrate's Court having jurisdiction any person whom he shall find committing the offence of unlawful gaming; and if he deem it advisable, to search such person so arrested and to seize any instruments or appliances of gaming found with him or upon him or near him, and to carry the same before the Magistrate's Court having jurisdiction.

5. (1) A Magistrate, on being satisfied upon written information on oath, and after any further inquiry which he may think necessary, that there is good reason to believe that any place is kept or used as a common gaming place, may by warrant in the form A in the Schedule authorize any person therein named, or any police officer, with such assistance and by such means as may be necessary, by night or by day, to enter or go to such place and to search the same and all persons found therein, and to seize all instruments or appliances for gaming, 'and all money, securities for money, and other articles reasonably supposed to have been used or intended to

be used for any game, which may be found in such place or on any such persons, and also to detain all such persons until they and the said place shall have been searched. If what is made by this Ordinance presumptive evidence of guilt applies to such place or to any person therein, every person found in such place shall be taken before a Magistrate to be dealt with according to law.

(2) All instruments or appliances for gaming, money, securities for money, and other articles found in a common gaming place, or on any persons found therein or escaping therefrom, and which the Magistrate is of opinion were used or intended to be used for any game, shall be declared by him to be forfeited to the State, and shall be dealt with accordingly.

6. (1) A Magistrate may himself do what he may under section 5, authorize a police officer to do, whenever such Magistrate is competent to issue a warrant under the said section, and also in any of the following cases, that is to say:—

Magistrate may himself enter and search.

- (a) if any person has within the preceding six months been convicted of having kept or used as a common gaming place the place purposed to be entered; or
(b) if the Magistrate receives the required information orally and, either on oath or not on oath, under such circumstances that the object of a search would, in his opinion, be defeated by the delay necessary for reducing the information to writing:

Provided, however, that in the last case the name and address of the person giving such information is known to, or ascertained by such Magistrate before he acts upon such information.

(2) Whoever in giving such oral information makes a statement which he knows or believes to be false, or does not believe to be true, shall be punished with simple or rigorous imprisonment for a term which may extend to twelve months.

False Formation.

7. A person found in a common gaming place, or found escaping therefrom on the occasion of its being entered under this

Presumptive proof of unlawful gaming.

Persons found committing unlawful gaming may be arrested.

Search warrant against premises.

Ordinance, or who is found in possession of any instrument or appliance of gaming on the occasion of being searched under section 4 or section 5, shall be presumed, until the contrary is proved, to be guilty of unlawful gaming.

the form E in the Schedule. The demolition shall be effected by some public officer expressly ordered by the Magistrate to effect such demolition.

Presumptive proof against occupier.

**8.** If any instruments or appliances for gaming are found in any place entered under this Ordinance, or upon any person found therein or if persons are seen or heard to escape therefrom on the approach or entry of any Magistrate, police officer, or person authorized to search such place, or if a Magistrate, police officer, or other person having authority under this Ordinance to enter or go to such place is unlawfully prevented from, or obstructed or delayed in, entering or approaching the same or any part thereof, it shall be presumed, until the contrary is proved, that the place is a common gaming place, and that the same is so kept or used by the occupier thereof.

**12.** If in any prosecution for the offence of unlawful gaming it shall be alleged, and the Magistrate has reason to believe, that the offence was committed in or upon any licensed premises referred to in subsection (2) (b) of section 22, the person licensed in respect of such premises shall also be made a party accused ; and the Magistrate shall, if he find that the offence was committed in or upon such licensed premises, and was wilfully permitted or countenanced by such licensed person, convict such licensed person of the said offence and sentence him to rigorous imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred rupees, or to both.

Liability of licensee of licensed premises wilfully permitting unlawful gaming therein.

When an article is deemed to be in the possession of a person. [§5,48 of 1961.3

**8A;** For the purposes of this Ordinance, any article in the order, disposition, power or control of any person shall be deemed to be in his possession.

**13.** If in any prosecution for the offence of keeping a common gaming place, the place alleged to have been kept as a common gaming place shall be any licensed premises as in the last preceding section mentioned, the person licensed in respect of such premises shall be made a party accused, and the Magistrate shall, if he find that the offence of keeping a common gaming place was committed in respect of such licensed premises with the acquiescence, permission, or connivance of such licensed person, convict such person of the said offence, and shall sentence him to rigorous imprisonment for a term not exceeding twelve months, or to a fine not exceeding five hundred rupees, or to both. In case of a conviction of a licensed person under either this or the last preceding section, his licence shall be thereby forfeited.

Liability of licensee of licensed premises kept as a common gaming place.

Charge for unlawful gaming.

**9.** In prosecutions for unlawful gaming, the charge to be framed under section 182 of the Code of Criminal Procedure Act shall be in the form B in the Schedule and the commitment on such charge shall be in the form C in the said Schedule.

Charge for keeping a common gaming place.

**10.** In prosecutions for keeping a common gaming place, the charge to be framed under the Code of Criminal Procedure Act shall be in the form D in the Schedule and the commitment on such charge shall be in the form C in the said Schedule.

Magistrate may order demolition of structural contrivances for facilitating gaming.

**11.** Whenever it appears to a Magistrate upon the trial of any offence under this Ordinance that the place in or in respect of which the offence is alleged to have been committed is a common gaming place, and that the same is expressly fitted up and contrived for the purpose of being used as a common gaming place, the Magistrate shall order the demolition of the special fittings and contrivances, and such order shall be in

**14.** (1) It shall be lawful for the Magistrate before whom any person shall be brought, who have been found in any place entered in pursuance of any authority granted under the provisions of this Ordinance, to require any of such persons to be examined on oath and give evidence touching any unlawful gaming in such place, or touching any act done for the purpose of preventing, obstructing, or delaying the entry into such place or any part thereof of any Magistrate, police officer, or other person authorized as aforesaid; and no person so

Examination of offenders

required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time, by or before the same or any other Magistrate, or by or before any court, on any proceeding in any wise relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself; and any such person so required to be examined as a witness, who refuses to make oath accordingly, or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person appearing as a witness before any Magistrate or court in obedience to a summons, and refusing, without lawful cause or excuse, to be sworn or to give evidence, may by law be dealt with.

Indemnity to person making full discovery of all things as to which he is examined.

(2) Every person so required to give evidence who shall in the opinion of the Magistrate make true and full discovery of all things as to which he is lawfully examined, shall be entitled to receive a certificate of indemnity under the hand of the Magistrate, stating that he has made a true and full discovery of all things as to which he was examined, and such certificate shall be a bar to all legal proceedings against him in respect of all such things as aforesaid.

Persons charged may give evidence on their own behalf.

(3) Any person charged with an offence against this Ordinance may, if he thinks fit, tender himself to be examined on his own behalf, and thereupon may give evidence in the same manner and with the like effect and consequences as any other witness.

Offences under the Ordinance cognizable.

15. All offences under this Ordinance are hereby declared to be cognizable and bailable within the meaning of those terms as defined in the Code of Criminal Procedure Act, and shall be triable summarily by a Magistrate's Court, which is hereby authorized to inflict the penalties hereinbefore provided, anything in the said Act to the contrary notwithstanding.

No offence to play billiards, bagatelle, &c.

16. Nothing in this Ordinance contained shall be construed to make it an offence to play, whether for a stake or not, the games

of billiards or bagatelle, or any game which is also an athletic exercise, unless such games or game are or is played with any instrument or appliance the importation of which is prohibited by Order made under subsection (1) of section 3A, whether or not such instrument or appliance is one that has been actually imported into Sri Lanka and whether or not it is one the importation of which into Sri Lanka has been before the coming into force of such Order.

17. The Magistrate may direct any fine or portion of any fine imposed and recovered under this Ordinance to be paid to the informer or informers. Reward to informer

18. No criminal prosecution of any person on account of any act purporting to have been done by virtue of the powers conferred by this Ordinance shall be commenced, except with the permission first obtained of the Attorney-General. No person to be prosecuted for act done under the Ordinance, save with Attorney-General's permission.

19. No action for damages shall lie in any civil court for any act done by any person purporting to act under the provisions of this Ordinance, unless such act be first proved to have been done with express malice. In civil actions express malice must be proved-

20. No rule framed under the provisions of any existing or future enactment relating to Village Councils for the prevention of "gambling" shall be held to be ultra vires on the ground that it conflicts with the provisions of this Ordinance. Rules under the Village Councils Ordinance saved from the operation of this Ordinance.

21. (1) The provisions of this Ordinance, other than subsection (2) of this section, shall not be held to apply to or in any way to affect—

- (a) any resthouse in charge of an Urban Council or Town Council, or any proprietary club, if and so long as no promiscuous gaming takes place therein; or Certain provisions of the Ordinance not to apply to clubs, resthouses, and licenced hotels. [§4, 26 of 1957.]
- (b) any hotel duly licensed under any enactment for the time being in force regulating the licensing of hotels, so long as the licence of such hotel continues in force:

Provided, however, that upon information received by the Government Agent of the administrative district within which a hotel may be licensed that promiscuous gaming has on one or more occasions been carried on in such hotel, whether with the privity of the hotel keeper or not, it shall be lawful for such Government Agent, after due inquiry held, and upon being satisfied of the truth of such information, to withdraw the licence of such hotel, and such licence shall, upon the publication of such withdrawal in the Gazette, be deemed and taken to be withdrawn, and shall be of no further force or effect.

[§4,26 of 1957-]

(2) No person shall, in any resthouse, proprietary club or hotel referred to in subsection (1), play a game of chance or of mixed chance and skill with any instrument or appliance the importation of which is prohibited by Order made under subsection (1) of section 3A, whether or not such instrument or appliance is one that has been actually imported into Sri Lanka and whether or not it is one the importation of which into Sri Lanka has been before the coming into force of such Order. Any person who contravenes the provisions of this subsection shall be guilty of an offence and shall, on conviction, 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.

Interpretation. 22. For the purposes of this Ordinance, "unlawful gaming" shall include—

- (1) cock-fighting, whether for a stake or not, and whether practised publicly or privately;
- (2) the act of betting or of playing a game for a stake when practised—
  - (a) in or upon any path, street, road, or place to which the public have access, whether as of right or not, or
  - (b) in any premises in respect of which a licence has been granted to distil, manufacture, sell, or possess arrack, rum, toddy, or any intoxicating liquor, or

(c) in or at a common gaming place as hereinafter defined;

- (3) the act of playing, in any place [§5,26 of 1957.] whatsoever whether for a stake or not, a game of chance or of mixed chance and skill with any instrument or appliance the importation of which is prohibited by Order made under subsection (1) of section 3A, whether or not such instrument or appliance is one that has been actually imported into Sri Lanka and whether or not it is one the importation of which into Sri Lanka has been before the coming into force of such Order;

"place" shall include any house, office, room, or building, and any place or spot whether open or enclosed, and any ship, boat, or other vessel whether afloat or not, and any vehicle;

"common gaming place" shall include [§5,26 of 1957.] any place to which the public may have access with or without payment and which is kept or used for betting or the playing of any game for a stake, or the playing, whether for a stake or not, of any game of chance or of mixed chance and skill with any instrument or appliance the importation of which is prohibited by Order made under subsection (1) of section 3A, whether or not such instrument or appliance is one that has been actually imported into Sri Lanka and whether or not it is one the importation of which into Sri Lanka has been before the coming into force of such Order; and a place shall be deemed to be kept or used for betting or the playing of any game for a stake, or the playing, whether for a stake or not, of any game of chance or of mixed chance and skill with any such instrument or appliance as aforesaid, if it is so used even on one occasion only;

**GAMING**

**[Cap.59**

" instruments or appliances of gaming " shall include cards, dice, balls, counters, tables, boards, or other instruments used in or for the purpose of gaming or betting, or for the playing of games of chance, or

for the playing of games of mixed chance and skill;

" Magistrate" includes a Municipal Magistrate.

**SCHEDULE**

**Form A**

[Section 5.]

To (a).

- (a) Name and designation of person who is to execute warrant.
- (b) Name of place.
- (c) Signature of public officer issuing warrant.
- (d) Official esignation of public officer issuing warrant.

Whereas credible information has been received by me that the offence of keeping a common gaming place is being committed at (b)\_\_\_\_\_:

This is to authorize and require you forthwith to enter and to search (b)\_\_\_\_\_ and to exercise all and singular the powers conferred upon you by this warrant and by section 5 of the Gaming Ordinance.

(c)\_\_\_\_\_

(d)\_\_\_\_\_

**Form B**

[Section 9.]

I,(a)\_\_\_\_\_, hereby charge you, (b)\_\_\_\_\_, as' follows :

- (a) Name and office of Magistrate.
- (b) Name of accused.
- (c) Date of offence.
- (d) Name of place where offence occurred.
- (e) Signature of Magistrate.

That you, on or about the (c)\_\_\_\_\_ - , at (d)\_\_\_\_\_ unlawfully gamed and thereby committed an offence punishable under section 2 of the Gaming Ordinance.

(e)\_\_\_\_\_ ---  
Magistrate.

**Form C**

[Sections 9 and 10.]

To the Fiscal of the (a) \_\_\_\_\_ Court oL  
Whereas on the (b) \_\_\_\_\_, (c)\_\_\_\_\_ , prisoner in case No \_\_\_\_\_, was convicted before me (d)\_\_\_\_\_ , Magistrate, (e)\_\_\_\_\_ , of the offence [ of unlawful gaming 1  
keeping a common gaming place ]  
under section . 21 of the Gaming Ordinance and was sentenced to (f)\_\_\_\_\_ ]

- (a) Name of Court.
- (b) Date of conviction.
- (c) Name of prisoner.
- (d) Name of Magistrate.
- (e) Station of Magistrate.
- (/) Terms of penalty to . which prisoner has been sentenced.
- (g) Date of committal.
- (h) Signature of Magistrate.

This is to authorize and require you to receive the said (c). \_\_\_\_\_ into your custody, together with this warrant, and to carry the said sentence into execution according to law.

Given under my hand this (g)\_\_\_\_\_, 19\_\_.

(h)\_\_\_\_\_ -

**Cap.59]**

**GAMING**

[Section 10.]

**Form D**

- (a) Name and office of Magistrate.
- (b) Name of accused.
- (c) Date of offence.
- (d) Place where offence occurred.
- (e) Signature of Magistrate

I, (a)- \_\_\_\_\_, hereby charge you, (<>)\_ ->as follows:

**That you, on or about the ((c))** \_\_\_\_\_, at (d) \_\_\_\_\_, kept a common gaming place, and thereby committed an offence punishable under section 3 of the Gaming Ordinance.

(e)- \_\_\_\_\_ -  
Magistrate.

(Section 11.)

**Form E**

ORDER FOR THE REMOVAL OF THE FITTINGS OF A COMMON GAMING PLACE

- (a) Name of place.
- (b) Name of public officer designated.
- (c) Signature of Magistrate.

Whereas it has been made to appear to me that the place (a) \_\_\_\_\_>is expressly fitted and contrived for the purpose of being used as a common gaming place, I do hereby direct and require you (b) \_\_\_\_\_, to demolish such special fittings and contrivances as per list annexed.

(c) \_\_\_\_\_ -  
Magistrate.



**CHAPTER 181**

**GOVERNMENT-SPONSORED CORPORATIONS**

*Acts*  
Nos.19 of 1955,  
55 of 1957.

AN ACT TO ENABLE THE ESTABLISHMENT OF CORPORATIONS WITH CAPITAL PROVIDED BY THE GOVERNMENT FOR TAKING OVER AND CARRYING OUT THE PURPOSES OF MANUFACTORIES MAINTAINED OR WHOLLY OR PARTLY CONSTRUCTED BY THE GOVERNMENT, TO REGULATE THE POWERS AND DUTIES OF SUCH CORPORATIONS, TO PROVIDE FOR THE SALE TO THE PUBLIC OF THE SHARES OF THE GOVERNMENT IN THE CAPITAL OF SUCH CORPORATIONS AND FOR THE CONVERSION OF SUCH CORPORATIONS INTO INCORPORATED PUBLIC COMPANIES WITH LIMITED LIABILITY WHEN THE GOVERNMENT CEASES TO HOLD MORE THAN TWENTY PER CENT OF THE CAPITAL OF SUCH CORPORATIONS, AND TO MAKE PROVISION FOR PURPOSES CONSEQUENTIAL TO THE AFORESAID MATTERS.

[14th April. 1955.]

Short title.

**1.** This Act may be 'cited as the Government-Sponsored Corporations Act.

**PART I**

**ESTABLISHMENT OF GOVERNMENT-SPONSORED CORPORATIONS**

Incorporation Order for establishment of a Government-sponsored corporation.

**2.** (1) Where the Government considers it necessary that a corporation should be established in order to take over and carry out the purposes of a manufactory maintained or wholly or partly constructed by the Government, the Minister, with the approval of the Government, may by order (hereinafter referred to as the "Incorporation Order ") published in the Gazette—

(a) specify the manufactory (hereinafter referred to as the "specified manufactory ") to which the Order relates.

(b) declare that a corporation shall be established to lake over and carry out the purposes of the specified manufactory,

(c) assign a corporate name to the corporation,

(d) specify the objects of the corporation,

(e) determine the initial capital of the corporation, the division of the capital into shares, the classes of the shares, the amount of each share, and the rights attached to each class of shares,

(b) state the principal place of business of the corporation,

(g) fix the number of members of the board of directors of the corporation when the Government holds the entire capital of the corporation,

(h) appoint as the first members of such board any persons who, under Part II of this Act, are not disqualified for being such members, and

(i) appoint one of the members of such board as the chairman of such board.

(2) Upon the publication of the Incorporation Order in the Gazette, a corporation (hereinafter referred to as the " Corporation ") consisting of the persons who are for the time being members thereof by virtue of section 10 or section 39, as the case may be, with the corporate name specified in such Order, and with perpetual succession shall be deemed to have been established.

(3) The Corporation may sue and be sued in its corporate name.

Objects of the Corporation,

**3.** The objects of the Corporation shall be those specified in the Incorporation Order.

Principal place of business of the Corporation.

**4.** The principal place of business of the Corporation shall be that specified in the Incorporation Order.

Powers of the Corporation.

**5.** (1) The Corporation shall have the power to acquire and hold and to take on hire or lease any movable or immovable property and to give on hire or lease or to sell or otherwise dispose of any of its properties :

Provided, however, that no immovable property of the Corporation shall be sold without the prior approval of the Minister.

(2) The Corporation shall have the power to do anything necessary for, or conducive or incidental to, the carrying out of its objects, including the power to borrow money for carrying out its objects and to secure the payment of any sum of money by the mortgage of any of its properties :

Provided, however, that, so long as the Government holds more than twenty *per centum* of the capital of the Corporation, the Corporation shall not borrow or secure the payment of any sum of money exceeding such amount as may be determined from time to time by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Liability of the shareholders of the Corporation

**6.** The liability of any person holding any shares in the capital of the Corporation shall be limited to the amount, if any, unpaid on such shares.

Seal of the Corporation,

**7.** (1) The Corporation shall have a common seal which shall be in the custody of the board of directors.

(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 members of the board of directors both of whom shall sign the instrument or document in token of their presence-

(4) The board of directors shall maintain a register of the instruments or documents to which the seal of the Corporation is affixed.

**8.** Subject to the other provisions of this Act—

General control of the affairs, and the exercise of the powers, of the Corporation.

(a) the general control of the affairs of the Corporation shall be vested in a board of directors constituted as hereinafter provided, and

(b) the board of directors may exercise the powers of the Corporation for the purpose of carrying out the objects of the Corporation.

## PART II

### PROVISIONS APPLICABLE WHEN THE GOVERNMENT HOLDS THE ENTIRE CAPITAL OF THE CORPORATION

**9.** Save as otherwise provided in this Act, Part II of this Act shall apply to the Corporation so long as Part III of this Act does not apply to the Corporation.

Application of part II

**10.** The persons holding office for the time being as members of the board of directors shall be the members of the Corporation.

Members of the corporation

**11.** The board of directors shall consist of such number of directors as is fixed by the Incorporation Order.

Number of directors

**12.** A Member of Parliament shall not be qualified to be a director,

Disqualification for being a director.

**13.** (1) The Minister shall appoint the directors.

Appointment of directors and chairman of the board of directors.

(2) The Minister shall appoint one of the directors as the chairman of the board of directors.

**14.** Every director shall hold office for a period of three years, unless he is earlier removed from office or vacates his office.

Term of office of directors.

**15.** If any 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

Appointment of acting directors.

appoint some other person to act as a director in his place.

Resignation of directors, **16.** A director may resign his office by letter addressed to the Minister.

Removal of directors from office. **17.** The Minister may, if he thinks it expedient to do so, remove a director from office.

Eligibility of directors for re-appointment. **18.** A director who vacates office by resignation or effluxion of time shall be eligible for reappointment.

Remuneration of directors **19.** The directors may be remunerated out of the funds of the Corporation in such manner and at such rates as the Minister, with the concurrence of the Minister in charge of the subject of Finance, may determine.

The first directors and the first chairman of the board of directors. **20.** (1) The first directors shall be the persons appointed as such directors by the Incorporation Order, and their term of office shall commence on the date of publication of such Order in the Gazette.

(2) The first chairman of the board of directors shall be the person appointed as such chairman by the Incorporation Order.

Capital of the Corporation. **21.** (1) The initial capital of the Corporation shall be that specified in the Incorporation Order.

(2) The capital of the Corporation may, so long as Part HI of this Act does not apply to the Corporation, be increased from time to time by such amount as may be authorized by resolution of Parliament to be paid to the Corporation out of the Consolidated Fund for the purpose of increasing such capital.

Division of the capital into shares. **22.** (1) The initial capital of the Corporation shall be divided into such shares as are specified in the Incorporation Order, and each share shall be of such amount as is so specified. The rights attached to the shares shall be those specified in the Incorporation Order.

(2) Any amount by which the capital of the Corporation is increased in accordance with subsection (2) of section 21 shall be divided into such shares as the board of

directors may, with the approval of the Minister determine. The rights attached to those shares shall, with like approval, be determined by the board of directors.

**23.** (1) The board of directors shall issue to the Government, in the official designation of the Secretary to the Treasury, fully paid-up shares the total par value of which is equal to the amount of the initial capital of the Corporation.

(2) Where the capital of the Corporation is increased in accordance with subsection (2) of section 21, the board of directors shall issue to the Government, in the official designation of the Secretary to the Treasury, fully paid-up shares the total par value of which is equal to the amount by which the capital of the Corporation is increased as aforesaid.

(3) The board of directors shall cause the Secretary to the Treasury to be registered as the holder of the shares issued in his official designation.

**24.** (1) The Minister shall transfer the specified manufactory to the Corporation by Order published in the Gazette, and may, subject to the provisions of subsection (2) of this section, transfer by such Order or by a later Order so published—

(a) any movable or immovable property of the State required for the purposes of such manufactory, and

(b) any contracts and liabilities connected with such manufactory.

(2) No order affecting any immovable property of the State shall be made by the Minister under subsection (1) of this section without the concurrence of the Minister to whom the subject of State lands is for the time being assigned.

(3) Upon the publication of an Order under subsection (1) of this section in the Gazette—

(a) the manufactory and other properties specified in that Order shall vest in and be the properties of the Corporation,

Allotment of shares to the Government,

Transfer of the specified manufactory and other State property and certain contracts and liabilities to the Corporation.

(b) the contracts specified in that Order shall be deemed to be the contracts of the Corporation and all subsisting rights and obligations of the Government under such contracts shall be deemed to be the rights and obligations of the Corporation, and

(c) the liabilities specified in that Order shall be deemed to be the liabilities of the Corporation.

Transfer of certain non-pensionable employees of the Government to the Corporation.

25. The non-pensionable employees of the Government whose emoluments are, on the day immediately preceding the date of publication of the Incorporation Order in the Gazette, paid out of the funds granted by Parliament for the purposes of the specified manufactory shall, with effect from a date determined by the Minister, be transferred to the service of the Corporation, and upon such transfer, they shall cease to be employees of the Government and shall, for the purposes of the Public Service Provident Fund Ordinance, be deemed to have left the service of the Government on the abolition of office.

Appointment of public officers to the staff of the Corporation.

26. (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 of directors with like consent or be permanently appointed to such staff.

(2) Where an officer in the public service is temporarily appointed to the staff of the Corporation—

(a) he shall be subject to the same disciplinary control as any other member of such staff ;

(b) if, at the time of his temporary appointment to the staff of the Corporation, his substantive post in the public service was a post declared to be pensionable under

the Minutes on Pensions—

(i) he shall, while in the employ of the Corporation, be deemed to have been seconded to an office to which pension rights are not attached, and accordingly section 24 of those Minutes shall apply to him, and

(ii) in respect of him the board of directors shall pay out of the funds of the Corporation to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund for every complete month during which he is in the employ of the Corporation such sum not exceeding twenty-five *per centum* of the salary payable to him in his substantive post in the public service as may be determined by the Minister in charge of the subject of Finance ; and

(c) if, at the time of his temporary appointment to the staff of the Corporation, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance, his service to the Corporation shall, for the purposes of that Ordinance, be deemed to be service to the Government, and accordingly he shall, while he is in the employ of the Corporation, continue to pay to the Public Service Provident Fund such contributions as he was liable under that Ordinance to pay, and in respect of him the board of directors shall pay at the close of each financial year out of the funds of the Corporation to the Deputy Secretary to the Treasury to be credited to the officer's account in the Public Service Provident Fund a sum equivalent to such contribution as the Government is liable to pay to the Public Service Provident Fund in respect of him.

(3) Where an officer in the public service

is permanently appointed to the staff of the Corporation—

(a) he shall be deemed to have left the public service ;

(b) if, at the time of his permanent appointment to the staff of the Corporation, his substantive post in the public service was a post declared to be pensionable under the Minutes on Pensions—

(1) he shall be eligible for such an award under those Minutes 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 permanent appointment to the staff of the Corporation,

(ii) the amount of any such award made under those Minutes shall not be paid to him unless his employment in the Corporation is terminated by retirement on account of age or ill health or by the abolition of the post held by him in the Corporation or on any other ground approved by the Minister in charge of the subject of Finance, and

(iii) in the event of his death while in the employ of the Corporation, such an award as might have been made in respect of him under those Minutes if he had died immediately before his permanent appointment to the staff of the Corporation may be made in respect of him ; and

(c) if, at the time of his permanent appointment to the staff of the Corporation, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance, he shall, for the purposes of that Ordinance, be deemed to have left the service of the Government upon the determination of contract with the consent of the Government otherwise than by dismissal.

(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.

**27.** Every person who, on or before the date of publication of the Incorporation Order in the Gazette, was in training or had completed training for work in the specified manufactory and who had entered into a contract (hereinafter referred to as the " contract of training ") to serve the Government for a period specified in the contract shall, with effect from such date, be deemed to have contracted to serve the Corporation for the unexpired portion of such period, and—

(a) if such person is in the service of the Government on such date, he shall, with effect from such date, be transferred to the service of the Corporation for the unexpired portion of such period, without prejudice to the right of the Corporation to retransfer him, within twelve months from such date, to the service of the Government if he is found unsuitable for service in the Corporation, and

(b) if such person is not in the service of the Government on such date, he shall, on being called upon to do so by the Director of Industries, be bound to serve the Corporation for the unexpired portion of such period, without prejudice to the right of the Corporation to terminate the contract of training if he is found unsuitable for service in the Corporation.

**28.** Out of the profits of the Corporation in each year the board of directors shall, with the approval of the Minister, pay to general or specific reserves of the Corporation such sums of money as may be determined by such board with such approval, and the balance, if any, of such profits shall, with the approval of the Minister in charge of the subject of Finance, Reserves and dividends.

be declared and paid as a dividend on the shares of the Government. The dividends paid on such shares shall be credited to the Consolidated Fund by the Secretary to the Treasury.

Accounts of the Corporation.

**29.** (1) The board of directors shall cause the accounts of the Corporation to be kept in such form and in such manner as may be approved by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(2) The books of accounts of the Corporation shall be kept at the principal place of business of the Corporation.

(3) The board of directors shall cause the books of accounts of the Corporation to be balanced as on the thirty-first day of December in each year and shall, as soon as may be thereafter but not later than the thirtieth day of June following, 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 the first-mentioned day. The profit and loss account and the balance sheet shall be signed by the officer responsible for the preparation of such account and balance sheet and countersigned by two of the directors.

Audit.

**39.** (I) The accounts of the Corporation shall be audited annually by an auditor approved by the Minister. The auditor shall receive such remuneration from the funds of the Corporation as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance.

(2) The auditor 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 accounts referred to in the report are properly drawn up so as to exhibit a true and correct view of the affairs of the Corporation.

(3) The auditor shall transmit his report to the board of directors.

**31.** (I) The board of directors shall, on receipt of the auditor's report in each year, transmit to the Minister—

(a) a copy of such report,

(b) a copy of the profit and loss account,

(c) a copy of the balance sheet, and

(d) a report by such board on the work of the Corporation for the period for which the profit and loss account and the balance sheet have been made up.

(2) The Minister shall cause copies of such profit and loss account, balance sheet and reports as are referred to in subsection (1) of this section to be laid before Parliament.

**32.** (1) Subject to the provisions of section 62, the Minister may, after consultation with the board of directors, from time to time give such board general or special directions as to the exercise of the powers and the discharge of the duties of such board, and such directions shall be carried out by such board.

(2) Subject to the provisions of section 62, the Minister may, when he considers it necessary to do so, direct any person to hold an inquiry into the work and financial position of the Corporation.

(3) When such inquiry as is referred to in subsection (2) of this section is held, any director or any member of the staff of the Corporation shall, upon being requested to do so by the person holding the inquiry, furnish such information within his knowledge with regard to the affairs of the Corporation and produce such books of accounts or documents in his custody as that person may require.

**33.** The Corporation shall be liable to pay tax on its income or profits, but the Corporation shall not be liable to pay tax on the income or profits from the specified manufactory prior to the date of the transfer of such manufactory to the Corporation.

**34.** If the Minister approves of the proposed acquisition for any purpose of the Corporation of any land, or any interest in

Copies of auditor's report, profit and loss account, balance sheet, and report of board of directors to be sent to the Minister and laid before Parliament.

Directions by, and inquiries at, the instance of, the Minister.

Payment of tax on income or profits of the Corporation.

any land, other than State land, such land or interest shall be deemed to be required for a public purpose and may be acquired by the Government under the Land Acquisition Act, and, when so acquired, shall be transferred to the Corporation under the State Lands Ordinance.

(b) all contracts of the Corporation shall be deemed to be contracts of the State and all the subsisting rights and liabilities of the Corporation under these contracts shall be deemed to be the rights and liabilities of the State ;

Sale of shares of the Government.

**35.** (1) The Minister may, with the concurrence of the Minister in charge of the subject of Finance, from time to time decide that any shares of the Government shall be sold to the public.

(c) all sums due to the Corporation shall be deemed to be due to the State and may accordingly be recovered by the State ; and

(2) The Secretary to the Treasury shall take all such steps as may be necessary for the sale of such shares of the Government as are to be sold.

(d) all sums due from the Corporation shall be deemed to be due from the State and may accordingly be recovered from the State.

Supplementary Order.

**36.** Upon the completion of the first sale of shares of the Government, the Minister shall, with the approval of the Government and in consultation with the board of directors, by Order (hereinafter referred to as the " Supplementary Order ") published in the Gazette determine—

**PART III**

**PROVISIONS APPLICABLE WHEN THE GOVERNMENT HOLDS ONLY A PART OF THE CAPITAL OF THE CORPORATION**

(a) the authorized capital of the Corporation,

**37.** This Part of this Act shall apply to the Corporation after the date specified in that behalf in the Supplementary Order. Application of this part.

(b) the date after which Part III of this Act shall apply to the Corporation, and

**38.** (1) When this Part of this Act applies to the Corporation, the provisions of Part II of this Act shall, save as otherwise provided in this Part of this Act, cease to apply to the Corporation. Cessation of application of certain provisions of Part II

(c) the number of directors when Part III of this Act applies to the Corporation.

(2) The cessation of the application to the Corporation of such provisions of Part II of this Act as relate to shares shall not affect the shares issued under those provisions before such cessation.

Dissolution of the Corporation. [§ 2, 55 of 1957.]

**36A.** (1) Notwithstanding anything in any other provision of this Act, the Minister, with the approval of the Government, may, at any time before any shares of the Government in the capital of the Corporation are sold to the public, by Order published in the Gazette dissolve the Corporation with effect from such date as shall be specified in the Order.

**39.** The members of the Corporation shall be- Members of the Corporation.

(2) Where the Corporation is dissolved by Order made and published under subsection (1) of this section—

(a) the Secretary to the Treasury as the holder of the shares of the Government, and

(b) the holders for the time being of the shares other than the shares of the Government.

(a) all the movable and immovable properties of the Corporation shall vest in and be the properties of the State;

**40.** (1) Subject to the provisions of subsection (2) of this section, the authorized capital of the Corporation "shall be that specified in the Supplementary Order. Authorized capital of the Corporation.

(2) The amount of the authorized capital of the Corporation may, with the approval of the Minister, be altered from time to time by resolution passed at a meeting of the shareholders.

(3) Where it is decided to increase the capital of the Corporation, the board of directors may, for the purpose of effecting such increase, issue new shares of such amount, and with such rights attached thereto, as the board may, with the approval of the Minister, determine.

(4) Where it is decided to reduce the capital of the Corporation, the board of directors may, for the purpose of effecting such reduction, do all such acts as the board may, with the approval of the Minister, consider expedient.

**41.** Until such time as a board of directors is constituted in accordance with the provisions of this Part of this Act, the board of directors as constituted under Part II of this Act shall continue in office.

**42.** The number of directors shall be that specified in the Supplementary Order.

- 43.** The directors shall consist of—
- (a) directors (hereinafter referred to as "appointed directors") appointed by the Minister, and
  - (b) directors (hereinafter referred to as "elected directors") elected as hereafter provided.

**44.** The total number of directors shall be divided into the two classes of appointed directors and elected directors in such manner that the number of appointed directors bears to the number of elected directors the same proportion as the total par value of the shares of the Government bears to the total par value of the other issued shares. Where the result of such division is that either an integer and a fraction represent each class of directors or only a fraction represents one class of directors and an integer and a fraction represent the other class of directors, the fractions shall be omitted and—

- (a) where there is no integer left representing one class of directors

after the omission of the fractions, the number representing that class of directors shall be deemed to be one, and

- (b) in any other case the number representing appointed directors after the omission of the fractions shall be increased by one in order that the total number of directors of both classes may be equal to that specified in the Supplementary Order.

**45.** The directors shall elect one of their number to be the chairman of the board of directors.

**46.** (1) A Member of Parliament shall not be qualified to be an appointed director,

(2) Subject to the provisions of section 48, an appointed director shall, unless he is earlier removed from office or vacates his office, hold office until the conclusion of the next annual general meeting of the shareholders.

(3) If an appointed director is temporarily unable to discharge the duties of his office on account of illness or absence from Sri Lanka, or for any other cause, the Minister may appoint any other person to act in his place as director.

(4) An appointed director may resign his office by letter addressed to the Minister.

(5) The Minister may, if he thinks it expedient to do so, remove an appointed director from office.

(6) An appointed director who vacates office by resignation or effluxion of time shall be eligible for reappointment.

**47.** (1) Subject to the provisions of subsection (3) of this section, a person shall not be qualified to be an elected director unless he is the holder of shares which are of the par value of not less than five thousand rupees, on which all calls due have been paid, and in respect of which there is a right to vote at any meeting of the shareholders.

(2) The Secretary to the Treasury shall not be qualified to be an elected director.

Board of directors constituted under Part II to continue in office until a board of directors is constituted under Part III.  
Number of directors.

Two classes of directors.

Determination of number of appointed directors and number of elected directors.

Chairman of the board of directors.

Appointed directors

Elected directors



(3) If the requisite number of elected directors is not elected at a meeting of the shareholders held for the purpose of electing such directors, the persons who will hold office as appointed directors and elected directors at the conclusion of that meeting shall be entitled to elect the remaining number of elected directors from the shareholders (other than the Secretary to the Treasury) willing to serve as elected directors, notwithstanding that such shareholders have not the qualification specified in subsection (1) of this section.

(4) Subject to the provisions of section 48, an elected director shall, unless he is earlier removed from office or resigns his office, hold office until the conclusion of the next annual general meeting of the shareholders.

(5) The shareholders may, by passing a special resolution in that behalf at a meeting held for that purpose, remove an elected director from office before the expiration of his term of office, and may at that meeting or at any subsequent meeting elect another person in his place. The person so elected shall hold office during the unexpired portion of the term of office of the director in whose place he is elected.

(6) An elected director may resign his office by letter addressed to the board of directors.

(7) An elected director who vacates his office by resignation or effluxion of time shall be eligible for re-election.

**48.** (1) Whenever the proportion of the total par value of the shares of the Government to the total par value of the other issued shares so changes that such proportion ceases to be the same as that which the number of appointed directors bears to the number of elected directors, the board of directors shall convene a meeting of the shareholders for the purpose of electing persons to hold office as elected directors on the board of directors to be constituted thereafter.

(2) Before a meeting is held under

subsection (1) of this section—

(a) the registration of the transfer of shares shall be suspended by the board of directors for a period of fourteen days immediately preceding the date of that meeting, and

(b) the board of directors shall, not less than ten days before the date of that meeting, inform the Minister of the proportion of the total par value of the shares of the Government to the total par value of the other issued shares on the date of the commencement of the period of fourteen days referred to in paragraph (a) of this subsection.

(3) The Minister shall, at any time before the conclusion of a meeting held under subsection (1) of this section, inform the chairman of that meeting, either in writing or in any other manner as he may determine, of the names of the persons whom the Minister has appointed to hold office as appointed directors on the board of directors to be constituted thereafter.

(4) All persons holding office as appointed directors or elected directors at the commencement of a meeting held under subsection (1) of this section shall cease to hold office at the conclusion of that meeting unless they have been reappointed or re-elected.

**49.** No vote in respect of the shares of the Government shall be exercised in relation to the election of any director or the removal of any elected director from office.

**50.** Without prejudice to the payment of remuneration to a director for special services, the shareholders shall in general meeting determine the total amount of the remuneration of the directors. Such amount shall be divided among the directors in such proportions as they may unanimously fix and, failing unanimity, in equal proportions.

**51.** (I) The board of directors shall cause the accounts of the Corporation to be kept in such form and in such manner as such board may determine.

No vote in respect of Government shares at election or removal of directors. Remuneration of directors.

Accounts of the Corporation.

Fresh appointment and election of directors.

(2) The board of directors shall comply with the provisions of subsections 2 and 3 of section 29.

(3) The accounts of the Corporation shall be audited annually by an auditor who is appointed by the shareholders at a general meeting and who is a registered auditor within the meaning of subsection (7) of section 130 of the Companies Ordinance\*. The auditor so appointed shall comply with the provisions of subsections (2) and (3) of section 30.

(4) The board of directors shall lay before every annual general meeting of the shareholders a profit and loss account and a balance sheet prepared in accordance with the provisions of subsection (3) of section 29. Such profit and loss account and balance sheet shall be accompanied by a report by the board of directors on the work of the Corporation for the period for which such profit and loss account and balance sheet have been made up. The board of directors shall state in such report the amount, if any, which such board recommends to be paid out of the profits of the Corporation by way of dividend to the shareholders, and the amount, if any, which such board recommends to be transferred to reserve.

(5) A copy of—

(a) the report of the board of directors referred to in subsection (4) of this section,

(b) the audited profit and loss account and balance sheet, and

(c) the auditor's report,

shall be sent to every director and shareholder at his registered address.

(6) The board of directors shall comply with the provisions of subsection (1) of section 31.

(7) The Minister shall comply with the provisions of subsection (2) of section 31.

52. The provisions of sections 26, 32, 33, 34 and 35 shall apply to the Corporation, Application of sections 26 32, 33, 34 and 35.

PART IV

PROVISIONS APPLICABLE WHEN THE GOVERNMENT CEASES TO HOLD MORE THAN TWENTY PER CENT OF THE CAPITAL OF THE CORPORATION

53. When the Government ceases to hold more than twenty per centum of the capital of the Corporation— Constitution of new board of directors when the Government ceases to hold more than twenty per centum of the capital of the Corporation.

(a) the board of directors as then constituted shall continue in office until such time as a board of directors is constituted in accordance with the provisions of this section,

(b) a meeting of the shareholders shall be held for the purpose of electing such number of directors from the shareholders willing to be directors as is equal to the number of directors specified in the Supplementary Order, and

(c) the board of directors in office when the meeting under paragraph (b) of this section is held shall be replaced by a new board of directors consisting of the directors elected at such meeting.

54. The new board of directors constituted under section 53 shall forthwith cause an incorporated public company with limited liability to be formed under the Companies Ordinance\*, for the purpose of carrying out the objects of the Corporation. Formation of company to carry out the objects of the Corporation.

55. Upon the formation of the company referred to in section 54— Dissolution of the Corporation.

(a) the Corporation shall be deemed to be dissolved,

(b) all the movable and immovable properties of the Corporation shall vest in and be the properties of such company,

\* Later repealed and replaced by the Companies Act, No. 17 of 1982- See the 1985 Supplement to the Revised Edition.

- (c) the capital of the Corporation shall be deemed to be the capital of such company,
- (d) the shares in the capital of the Corporation shall be deemed to be the shares in the capital of such company,
- (e) the shareholders of the Corporation shall be deemed to be the shareholders of such company,
- (f) all contracts of the Corporation shall be deemed to be contracts of such company and all the subsisting rights and liabilities of the Corporation under those contracts shall be deemed to be the rights and liabilities of such company,
- (g) all sums due to the Corporation shall be deemed to be due to such company and may accordingly be recovered by such company,
- (h) all sums due from the Corporation shall be deemed to be due from such company and may accordingly be recovered from such company, and
- (i) all the officers and servants of the Corporation shall be transferred to, and be the officers and servants of, such company.

to the Corporation by or under this Act, shall not apply to the Corporation.

(2) Notwithstanding anything in subsection (1) of this section, the Minister may, whenever he thinks it necessary to do so, by regulation made under this Act provide for the application to the Corporation, with or without any modification, of any such provision of the Companies Ordinance\* as is not for the time being applicable to the Corporation.

**58.** The board of directors shall keep in one or more books a register of shareholders and shall enter therein the following particulars:—

- (a) the names and addresses, and the occupations, if any, of the shareholders, and a statement of the shares held by each shareholder, distinguishing each share by its number;
- (b) the date on which the name of each shareholder was entered in the register of shareholders; and
- (c) the date on which any shareholder ceased to be a shareholder.

**59.** (1) The shares shall be movable property and may be transferred in such manner as may be provided in the regulations of the Corporation.

(2) Where shares are issued when Part III of this Act applies to the Corporation, those shares shall be of such class and of such par value, and have such rights attached thereto, as may be determined by the board of directors with the approval of the Minister.

**60.** (1) The board of directors shall have power to appoint such officers and servants as may be necessary for the purposes of the Corporation, and to exercise disciplinary control over and dismiss any officer or servant of the Corporation:

Provided, however, that, subject to the provisions of section 62, the appointment, and the termination of the services, of the chief executive officer of the Corporation shall not be made without the approval of the Minister.

**PART V**

**GENERAL PROVISIONS**

**56.** (1) The regulations in the Schedule to this Act shall be the regulations of the Corporation in regard to the matters to which they relate.

(2) By resolution passed at a meeting of the shareholders any regulation in the Schedule to this Act may be amended or rescinded or any new regulation may be added to the regulations in that Schedule or those regulations may be replaced by new regulations.

**57.** (1) The provisions of the Companies Ordinance\*, other than the provisions of that Ordinance which are made applicable

Regulations of the Corporation.

Application of company law to the Corporation.

• See footnote to section 51.

(2) Subject to the provisions of section 62, the remuneration of the chief executive officer of the Corporation shall be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance and the remuneration of the other officers and servants of the Corporation shall be determined by the board of directors with the approval of the Minister.

(3) In this section, the expression " chief executive officer " shall not be construed or deemed to include the managing director appointed under section 63.

**61.** The board of directors may establish and regulate a pension scheme or provident fund for the payment of pensions, gratuities or retiring allowances to members of the staff of the Corporation and a widows' and orphans' pension fund or scheme for providing pensions to the widows and orphans of deceased members of the staff, and may require contributions to be made to any such scheme or fund by members of the staff of the Corporation and may deduct such contributions from the salaries or wages of such members and may make contributions to any such scheme or fund from the revenues of the Corporation.

**62.** The powers of the Minister under section 32 shall not be exercised, and the approval of the Minister under section 60 shall not be required, so long as the total par value of the shares of the Government is not more than forty-nine *per centum* of the total par value of the issued shares.

**63.** When the total par value of the shares of the Government is not more than forty-nine *per centum* of the issued shares, the board of directors may appoint a fit and proper person to be the managing director of the Corporation, and, if the person so appointed is not a director, his appointment

shall not take effect until he becomes a director. The terms and conditions of the appointment of the managing director shall be determined by the board of directors with the approval of the Minister.

**64.** Every director shall, whether or not he is a shareholder, be entitled to be present at any meeting of the shareholders and to speak on any matter discussed at that meeting.

A director, whether shareholder or not, may attend meeting of shareholders.

**65.** No act or proceeding of the board of directors shall be invalidated by reason only of the existence of any vacancy among its members or any defect in the appointment or election of a member thereof.

Validity of acts and proceedings of the board of directors.

**66.** (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act and in respect of all matters for which regulations are authorized or required by this Act to be made.

Regulations.

(2) No regulation made by the Minister under subsection (1) of this section shall take effect unless it is approved by Parliament and is published in the Gazette together with a notice of such approval.

**67.** In this Act, unless the context otherwise requires—

" board of directors " means the board of directors of the Corporation ;

" director " means a member of the board of directors;

"shares " means shares in the capital of the Corporation; and

"shareholder " means a person registered as a shareholder in the Corporation's register of shareholders.

Pension scheme, &c., for staff.

When certain powers of the Minister are not to be exercised.

Managing director.

## SCHEDULE

## REGULATIONS OF THE CORPORATION

[Section 56.]

GENERAL MODIFICATIONS IS SUCH OF THE REGULATIONS IN TABLE A IN THE FIRST SCHEDULE TO THE COMPANIES ORDINANCE\* AS ARE APPLICABLE TO THE CORPORATION

1. Any such regulations in Table A in the First Schedule to the Companies Ordinance\* as are made by or under this Act to apply to the Corporation shall, in their application to the Corporation, have effect as if—

- (a) every reference therein to the " company " were a reference to the Corporation,
- (b) every reference therein to a " member " were a reference to a shareholder, and
- (c) every reference therein to the " register of members " were a reference to the register of shareholders.

## SHARES

2. (1) Regulations 4 and 5 and regulations 7 to 29 (both inclusive) of the regulations in Table A in the First Schedule to the Companies Ordinance\* shall, subject to the other provisions of this regulation, apply to the Corporation.

(2) Regulation 18 of the regulations specified in paragraph (1) of this regulation shall, in its application to the Corporation, have effect as if the words " Company, Limited " occurring therein were omitted.

(3) Regulation 22 of the regulations specified in paragraph (1) of this regulation shall, in its application to the Corporation, have effect as if for the words " conferred by membership " occurring therein there were substituted the words " attached thereto ".

(4) Regulation 28 of the regulations specified in paragraph (1) of this regulation shall, in its application to the Corporation, have effect as if the word " statutory " occurring therein were omitted.

## MEETINGS

3. An annual general meeting of the shareholders shall be held at such time (not being more than fifteen months after the holding of the last preceding annual general meeting) and at such place as the board of directors may determine.

4. The business of an annual general meeting of the shareholders shall be—

- (a) to receive and consider, and either in whole or in part adopt, confirm or reject the accounts and balance sheets,
- (b) to receive the report of the board of directors and the report of the auditor,
- (c) to decide on any recommendation of the board of directors with respect to dividend, and
- (d) subject to the provisions of the regulations of the Corporation, generally to discuss any affairs of, or relating to, the Corporation.

5. The board of directors may, whenever such board thinks proper, call an extraordinary general meeting of the shareholders, and shall call an extraordinary general meeting of the shareholders upon receiving a requisition in writing signed—

- (a) by the Secretary to the Treasury, or
- (b) by the shareholders (other than the Secretary to the Treasury) holding, on the date of the receipt of such requisition by such board, shares of which the total par value is not less than one-tenth of such of the paid-up capital of the Corporation as at that date carries the right of voting at general meetings of the shareholders.

6. No business shall be transacted at an extraordinary general meeting of the shareholders other than the business specified in the notice of the meeting.

\* See footnote to section 51.

7. Not less than seven days' notice of every general meeting of the shareholders specifying the place, time, and business of the meeting shall be given to the shareholders.

8. The quorum for any general meeting of (he shareholders shall be three shareholders entitled to vote.

9. (1) Regulation 46 to 63 (both inclusive) of the regulations in Table A in the First Schedule to the Companies Ordinance\* shall, subject to the provisions of paragraph (2) of this regulation, apply to the Corporation.

(2) Regulation 61 of the regulations specified in paragraph (1) of this regulation shall, in its application to the Corporation, have effect as if the words " Company, Limited " wherever occurring therein were omitted.

10. The board of directors shall, whenever necessary, summon meetings of the shareholders for the purpose of the election of directors.

11. The board of directors may make rules fixing the quorum for the meetings of such board and generally for the purpose of regulating such meetings and the transaction of business thereat.

DIVIDENDS AND RESERVE

12. Regulations 99 to 96 (both inclusive) of the regulations in Table A of the First Schedule to the Companies Ordinance\* shall apply to the Corporation.

13. Regulations 103 to 106 (both inclusive) of the regulations in Table A of the First Schedule to the Companies Ordinance\* shall apply to the Corporation.

\* See footnote to section 51.

## CHAPTER 15

### GOVERNMENT GAZETTE (PUBLICATION)

*Ordinance* AN ORDINANCE TO DISPENSE WITH THE NECESSITY FOR PUBLICATION OF CERTAIN  
*No. 17 of 1930.* MATTERS IN THE GOVERNMENT GAZETTE.

*[15th November, 1930.]*

Short title. 1. This Ordinance may be cited as the  
Government Gazette (Publication)  
Ordinance.

Power to annul provisions of written law requiring publication or proclamation in the Gazette. 2. (1) It shall be lawful for the Minister, after consulting the Minister in charge of the subject of Justice, by Order published in the Gazette, to declare that any provision of written law with the administration of which he is charged and which requires that any matter or thing, or any order, notification, list, statement, abstract, notice, or other document, shall be published or proclaimed, or published by Proclamation, in the Gazette, shall cease to be in force as from a date to be specified in such Order.

(2) All Orders made under this section 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 Orders shall not be disapproved, and if upon the introduction of any such motion, or upon any adjournment thereof, the said Orders are disapproved by Parliament, such Orders shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything done already thereunder; and such Orders, if not so disapproved, shall continue to be of full force and effect. Every such disapproval shall be published in the Gazette.

**CHAPTER 499**

**GIRL GUIDES ASSOCIATION**

Act No. 12 of 1965. AN ACT TO INCORPORATE THE GIRL GUIDES ASSOCIATION, CEYLON.

[13th November, 1965.]

Short title.	<b>1.</b> This act may be cited as the Girl Guides Association, Ceylon, (Incorporation) Act.	<b>6.</b> There shall be an Executive Committee of the Corporation called " The Executive Committee of the Ceylon Girl Guides Association ", constituted in accordance with the Articles of the Association. Such Committee is hereinafter referred to as " the Executive Committee ".	Executive committee
Incorporation.	<b>2.</b> The persons who, on the date of commencement of this Act, are members of the Girl Guides Association, 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 with perpetual succession and a common seal and the name "The Ceylon Girl Guides Association ". Such corporation is hereinafter referred to as " the Corporation ".	<b>7.</b> There shall be a Secretary of the Corporation (hereinafter referred to as " the Secretary ") who shall be appointed by the Executive Committee in accordance with the Articles of the Association.	Secretary.
Corporation may sue or be sued.	<b>3.</b> The Corporation may sue and be sued by the name " The Ceylon Girl Guides Association ".	<b>8.</b> The General Council, the Executive Committee and the Secretary of the Association, holding office on the date of commencement of this Act, shall be the first General Council, Executive Committee and Secretary, respectively, of the Corporation.	The first General council Executive Committee and Secretary.
Objects of the Corporation.	<b>4.</b> The objects of the Corporation shall be, to foster among girls a love of the country and a sense of citizenship, to give them an opportunity for self-training in the development of character and service for others, to inculcate in them discipline, loyalty and thoughtfulness for others, to encourage goodwill and understanding by establishing friendly contacts with girls of other nations, and in general, to train and develop the character of girls in accordance with the principles laid down by the late Lord Baden Powell.	<b>9.</b> The General Council and the Executive Committee shall be responsible for the management of the affairs and the accomplishment of the objects of the Corporation.	Management.
General Council.	<b>5.</b> There shall be a General Council of the Corporation called "The General Council of the Ceylon Girl Guides Association", constituted in accordance with the Articles of the Association appearing in the Constitution of the Association. Such Articles are hereinafter referred to as " the Articles of the Association ", and such Council is hereinafter referred to as "the General Council".	<b>10.</b> (1) The General Council may, upon the recommendation of the Executive Committee, from time to time, make such rules as it may deem expedient for the management of the affairs and the accomplishment of the objects of the Corporation. Such rules shall be made at an Annual Meeting of such Council and with the consent of two-thirds of the members of such Council present and voting.	Rules.
		(2) Any rule of the Corporation may be amended or rescinded in like manner as a rule may be made under subsection (1).	
		(3) The Articles of the Association in force on the date of commencement of this Act shall be deemed to be the rules of the	



Corporation made under this section and may accordingly be amended, rescinded or replaced by new rules made by the General Council in the manner set out in subsection (1). Any such Articles as are in conflict or inconsistent with the provisions of this Act shall be deemed to be rescinded.

(4) The members of the Corporation shall be subject to the rules of the Corporation.

Sums payable by or to the Association to be paid by or to the Corporation.

11. All debts and liabilities of the Association existing on the date of commencement of this Act shall be paid and discharged by the Corporation, and all debts, subscriptions and contributions due or payable to the Association on such date shall be paid to the Corporation.

Alteration of the seal of the Corporation.

12. The seal of the Corporation may be altered at the pleasure of the General Council upon the recommendation of the Executive Committee.

The Corporation may acquire, hold and dispose of property and borrow money.

13. The Corporation—

- (a) may acquire and hold any movable or immovable property by right, 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 property, subject to the rules of the Corporation, and

(d) may borrow money for the purposes of the Corporation.

14. Any property acquired by the Corporation after the commencement of this Act and all subscriptions, donations or other monies received by the Corporation shall be held subject to the rules of the Corporation. Property to be held subject to rules.

15. All acts done at any meeting of the General Council or the Executive Committee shall, notwithstanding any vacancy in that Council or Committee or any defect in the election of any member thereof, be as valid as if there had been no such vacancy or defect. Acts of the Council and the Executive Committee.

16. 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. Liability of members of the Corporation.

17. Nothing in this Act 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 Act and those claiming by, from, or under them. Saving of the rights of the Republic and others.

**CHAPTER 613**

**GOVERNMENT INDEMNITY BONDS**

*Act*  
No. 6 of 1956.

AN ACT TO ENABLE THE SECRETARY TO THE TREASURY, OR ANY PUBLIC OFFICER AUTHORIZED BY HIM, TO EXECUTE INDEMNITY BONDS REQUIRED FROM THE GOVERNMENT OF SRI LANKA BY ANY AUTHORITIES ABROAD PROVIDING TRAINING TO ANY PUBLIC OFFICERS OF SRI LANKA.

[3rd February. 1956.]

Short title.

**1.** This Act may be cited as the Government Indemnity Bonds Act.

behalf may execute such bond acting in the name and on behalf of the Government of Sri Lanka.

Execution of indemnity bonds in respect of public officers undergoing training abroad.

**2.** (1) Where a public officer is undergoing any approved training abroad and the authority providing such training requires the Government of Sri Lanka to execute a bond indemnifying such authority and the officers, servants and agents of such authority against all liability for any loss or damage—

(2) Any sum payable under any bond executed under subsection (1) is hereby charged on the Consolidated Fund.

(3) In subsection (1)—

(a) which is caused otherwise than by the negligence of such authority or of any officer, servant or agent of such authority, and

" approved training " means any training approved by the Secretary to any Ministry;

(b) which would not have occurred but for the training facilities afforded to such public officer,

" loss or damage " means the death of, or any bodily injury to, any person, the loss of, or any damage to, any property, and any costs or expenses; and

the Secretary to the Treasury or any public officer authorized by him in writing in that

"public officer" means any person holding a paid office under the Republic of Sri Lanka.

CHAPTER 540

GAS METERS

Ordinances AN ORDINANCE TO MAKE PROVISION FOR REGULATING MEASURES USED IN SALES OF  
Nos. 3 of 1871, GAS.  
39 of 1935,  
29 of 1947.

[11th January, 1871.]

Short title. 1. This Ordinance may be cited as the Gas Meter Ordinance. them, and to compare any other meter therewith.

Interpretation. 2. In construing this Ordinance the following terms shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to or inconsistent with such construction:— 5. In all contracts, bargains, sales, and dealings which shall be made or had in respect of the supply of gas, no meter shall be used within any town which shall not have been stamped by the Municipal Council thereof, in token of the same having been tested and verified by them in accordance with the standard hereby established: Meters to be stamped.

" company " shall include a person;

" meter " shall mean gas meter, and shall include every kind of machine used for measuring gas.

Standard measure. 3. From and after the date on which this Ordinance shall come into operation the only legal standard or unit of measure for the sale of gas by meter shall be the cubic foot containing 62.2786 pounds, avoirdupois weight, of distilled or rain water, weighed in air at the temperature of sixty-two degrees of Fahrenheit's thermometer, the barometer being at thirty inches. Provided that a meter, duly stamped as aforesaid, shall not be liable to be reslamped, although the same be used in any other town than that at which the same was originally stamped, but shall be considered as a legal meter unless found to be incorrect within the meaning of this Ordinance.

Models to be kept by Municipal Councils for inspection. 4. And for the purpose of enabling every person to ascertain with certainty whether any meter in use, or intended for use, conforms to the standard hereby established, the Mayor of the Municipal Council of any Municipal town which is supplied with gas shall preserve with care at his office models of gas-holders measuring the said cubic foot and such multiples and decimal parts thereof as the Minister may, from time to time, declare to be expedient, together with proper balances, indices, and apparatus for testing the measurement and registration of meters ; and every person shall be at liberty, on giving reasonable notice, to inspect the said models, or any of 6. No meter shall be stamped by any Municipal Council testing the same, which shall be found to register, or be capable of being made, by any contrivance for that purpose, or by increase or by decrease of the water in such meter, or by any other means practically prevented in good meters, to register quantities varying from the true standard measure of gas more than two per centum in favour of the seller, or three per centum in favour of the consumer; and every meter which shall be found by such Municipal Council to register, or be so capable of being made to register, quantities varying beyond the limits aforesaid, shall be deemed incorrect within the meaning of this Ordinance; and every meter which shall be found to measure and register quantities accurately, or not varying beyond the limits aforesaid, and shall be found incapable by any such means as aforesaid of being made to register quantities varying beyond the Meters to be tested before being stamped.

limits aforesaid, shall be considered to be correct, and be stamped in such manner and on such part of the meter as such Municipal Council may deem best to prevent fraud.

7. The following rules shall be observed by any Municipal Council who are hereby required to undertake the testing of meters;—

Firstly, the meter shall be tested for soundness or leakage only, and not for percentage of error, when fixed on a horizontal base, and with gas under a pressure equal to a column of water three inches high, with a light or lights consuming not more than one-twentieth part of its measuring capacity per hour marked thereon, nor less than one-half of a cubic foot per hour, for all meters of a measuring capacity not exceeding one hundred cubic feet per hour, and not more than one-fortieth part of its said measuring capacity per hour for all meters of any greater measuring capacity per hour than one hundred cubic feet; and all meters found to work under such test shall be deemed sound meters and any meter found not to work under such test shall not be stamped.

The meter to be tested for percentage of error shall be fixed on a horizontal base, and shall be tested at a pressure equal to a column of water five-tenths of an inch high, and passing the quantity of gas or atmospheric air per hour which shall be marked thereon as its measuring capacity per hour; and the water used in such testing, and the air of the room in which such testing shall be made, shall be, as nearly as practicable, of the same temperature as the gas or air passed through the meter.

8. It shall be lawful for the Municipal Council of any Municipal town which is supplied with gas to appoint such person or persons as they may deem qualified thereto

for the purpose of examining, testing, and stamping meters; and in case any such person or persons shall stamp any meter without duly testing and finding the same to be correct, or shall refuse, or for three days after being so required neglect without lawful excuse, to test any meter, or to stamp any meter found to be correct on being so tested, shall be guilty of an offence, and shall be liable to a penalty not exceeding fifty rupees.

9. It shall be lawful for the Municipal Council of any Municipal town that is supplied with gas, or any person or persons appointed by them for that purpose, at all reasonable times and with all necessary workmen and appliances and other means, to enter any house or shop, store, warehouse, still, yard, or place whatsoever within their jurisdiction, wherein such Municipal Council may have reason to believe that there is any incorrect meter fixed or used, and to examine and test the same, and if necessary for such purpose to remove such meter, doing as little damage thereby as may be; and if upon such examination and testing it shall appear that any such meter is incorrect within the meaning of this Ordinance, or fraudulent, the same shall not be refixed or used again unless and until altered and repaired so as to measure and register correctly; and the fees on such removal, examination, and testing of a meter, whether corrected and replaced or not, shall be double the fees hereinafter made payable for testing and stamping, and shall be payable by the buyer or seller of gas, as the Municipal Council shall determine:

Provided that any person duly authorized by any company or person selling gas by meter may supply water to any meter, so as to keep the water at the correct level.

10. Every consumer of gas may hire or purchase and use for the measurement of the gas supplied to him any meter duly stamped under the authority of this Ordinance, provided that the gas to be consumed per hour shall not exceed the quantity per hour the meter is intended to measure, so marked on the outside thereof as aforesaid.

Rules for testing.

Municipal Councils to appoint inspectors of meters.

Municipal Councils may enter houses, &c.. for inspecting meters.

Consumers may use any stamped meters.

Gas meter may be tested at request of consumer or supplier.

11. (1) Where a gas meter is in use in any premises, the consumer, if the meter is the property of the supply company, or the supply company, if the meter is the property of the consumer or of the owner of the premises, shall be entitled, on application made to the Mayor of the Municipal Council and on prepayment of a fee of seven rupees and fifty cents, to have the meter tested with a view to ascertaining whether it should be deemed to be incorrect within the meaning of this Ordinance or whether it may be considered to be correct for the purpose of section 6.

(2) Where on application made under this section a gas meter is, after test, deemed to be incorrect within the meaning of this Ordinance, the fee paid shall be refunded to the person who made application for the test.

Fees for testing and stamping meters.

12. The fees for examination, comparison, and testing, with or without stamping meters, shall be seventy cents for each meter if the measuring capacity of the meter does not exceed fifty cubic feet of gas an hour. If the measuring capacity of a meter exceeds fifty cubic feet of gas an hour, the fees shall be seventy cents for the first fifty cubic feet an hour of measuring capacity and, in addition, for every one hundred or part of every one hundred cubic feet an hour of measuring capacity in excess of the first fifty cubic feet, thirty-five cents if the meter is a dry meter and fifty cents if the meter is a wet meter.

Cost of models and other expenses to be paid out of the lighting rates.

13. The expense of providing models of gas-holders, with proper balances, indices, and apparatus as aforesaid, and stamps for stamping meters, and the remuneration to such person or persons as may be appointed by the Municipal Council of any Municipal town to test and stamp meters, shall be paid out of the rates leviable under the Municipal Councils Ordinance.

Offences under this Ordinance.

14. Whosoever shall commit any of the following offences shall be liable to the fines hereinafter set forth :—

Counterfeiting marks or stamps.

(1) Whosoever shall make, except under the authority of this Ordinance, or forge, or counterfeit, or cause or procure to be made, except as

aforesaid, or forged or counterfeited, or knowingly act or assist in the making, except as aforesaid, or forging or counterfeiting any stamp or mark which may be used for the stamping or making of any meter under this Ordinance, shall be liable to a fine not exceeding thousand rupees and not less than one hundred rupees.

(2) Whosoever shall knowingly sell, alter, or dispose of, let, lend, or expose for sale any meter with such forged stamp or mark thereon, shall be liable to a fine not exceeding one hundred rupees and not less than twenty rupees:

Selling or uttering meter with forged, stamps.

Provided that all meters with such forged or counterfeited stamps shall be forfeited and destroyed.

(3) Whosoever shall knowingly repair or alter, or cause to be repaired and altered, or tamper with or do any other act in relation to any stamped meter, so as to cause such meter to register unjustly or fraudulently, or who shall prevent or refuse to allow lawful access to any meter in his possession or control, or the supply of water thereto as hereinbefore provided, or shall obstruct or hinder any examination or testing authorized by this Ordinance of any such meter, shall be liable to a fine not exceeding one hundred and fifty rupees:

Tampering with meters, obstructing inspectors, &c

Provided that the payment of any such penalty as aforesaid shall not exempt the party offending from liability to indictment or other proceeding at law to which he would otherwise be liable, or deprive any person of the right to recover damages for any loss or injury sustained by such act or default; and

Provided further that the party offending shall pay the fees for removing and testing and the expense of purchasing and fixing a new meter.

## **GAS METERS**

**[Cap. 540**

Settlement of  
disputes  
affecting  
meters.

**15.** All disputes between the buyer and seller of gas by meter, or between any owner of a meter and any person or persons appointed under this Ordinance to test meters, respecting the correctness of any meter, shall be referred to the said Municipal Council, whose decision thereon shall be final.

payment within a week after notice given to him in that behalf, by the Magistrate's Court, as if it were a fine imposed by such court, whether or not such amount shall exceed the sum which the Magistrate's Court has jurisdiction to award by way of fine.

Fees and  
expenses under  
this Ordinance  
how  
recoverable.

**16.** And in all cases where fees or expenses are by this Ordinance directed to be paid, the amount, if certified to by the Mayor or secretary of the said Municipal Council, shall be recovered, in the event of the party liable thereto failing to make

**17.** No prosecution shall be instituted against any person for any offence committed against the provisions of this Ordinance cognizable by a Magistrate's Court, unless the same shall be commenced within twelve months from the time of the commission of such offence.

Limitation of  
prosecution.

CHAPTER 465

GALLE MUSLIM CULTURAL ASSOCIATION

Law  
No. 21 of 1976.

A LAW TO INCORPORATE THE GALLE MUSLIM CULTURAL ASSOCIATION.

[31st August, 1976].

Short title.

1. This Law may be cited as the Galle Muslim Cultural Association Law.

lectures and discourses by prominent personalities;

Incorporation of the Galle Muslim Cultural Association.

2. From and after the date of commencement of this Law such and so many persons as now are members of the Galle Muslim Cultural Association, hereinafter referred to as " 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 style and name of the " Galle Muslim Cultural 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 alter the same at its pleasure.

- (f) to foster inter-communal amity;
- (g) to publish an annual journal of the Association;
- (h) to initiate, assist, co-ordinate and conduct Ahadiya classes and youth activities;
- (i) to disseminate information and exchange ideas regularly for the benefit of the general membership ;
- (j) to promote and encourage such sports, that do not contravene the noble ideals of Islam ; and

General objects of the Corporation.

3. The general objects for which the Corporation is constituted are hereby declared to be—

- (k) to take all other steps that are necessary and desirable for the promotion of the above-mentioned aims and objects.

- (a) to aim at developing a generation of men worthy of the highest traditions of Islam;
- (b) to spread the virtues of Islam and its culture;
- (c) to promote the cause of education generally and of adult education in particular;
- (d) to arrange debates, oratorical contests, games and other activities;
- (e) to maintain contacts with similar institutions in Sri Lanka and abroad, *inter alia*, by subscribing to magazines and periodicals, inviting delegates to participate in annual conferences and arranging

4. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation, be administered by an Executive Committee, consisting of such number of persons to be elected in accordance with the rules in force for the time being of the Corporation.

Executive Committee.

(2) The first Executive Committee of the Corporation shall be the Executive Committee of the Association holding office on the date of commencement of this Law.

5. (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.

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 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.

6. 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 purpose of this Law.

7. 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 shall be independent of the signing of any person as a witness.

How the seal of the Corporation is to be affixed.

8. The Corporation shall be capable in law to take and hold any property, movable and 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 property, movable and immovable.

9. 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 482**

**GALLE MUNICIPAL STAFFS BENEVOLENT ASSOCIATION**

Act No. 23 of 1970. AN ACT TO INCORPORATE THE GALLE MUNICIPAL STAFFS BENEVOLENT ASSOCIATION.

*[24th March, 1970.]*

Short title.

**1.** This Act may be cited as the Galle Municipal Staffs Benevolent Association (Incorporation) Act.

**4.** (1) All permanent monthly paid Membership. employees of the Galle Municipal Council, and members of the Local Government Service attached to the Galle Municipal Council, who are over twenty-one and under fifty years of age, shall be eligible for admission as members, and may, in the discretion of the Committee of Management, be admitted as members. The members of the Local Government Service who are members of the Corporation may continue their membership of the Corporation after their transfer from the Galle Municipal Council to any other local authority in the Island.

Galle Municipal Staffs Benevolent Association incorporated.

**2.** On and after the passing of this Act, such and so many persons as are now members of the Galle Municipal Staffs Benevolent Association or shall hereafter be admitted members of the said Association (hereinafter referred to as the "said Association") and whose names shall be inscribed in the register mentioned in section 11 (I), shall be, and become a Corporation with continuance for ever under the name of "The Galle Municipal Staffs Benevolent Association" (hereafter referred to as "the Corporation") and by that name shall 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.

(2) Every member shall pay an enrolment fee of Re. 1 on enrolment.

General objects.

**3.** The general objects for which the Corporation is constituted are hereby declared to be, to promote thrift, to give relief to its members in times of sickness, indebtedness and distress, to give to members on retirement, resignation or dismissal from the service of the Galle Municipal Council or the Local Government Service or on withdrawal from membership his accumulated savings, to give to each member on retirement, resignation or dismissal from any such service a death donation and retiring allowance, or in the event of the death of any member while in any such service to give to his nominee or nominees, if any, or to his legal heirs his accumulated savings and the death donation and retiring allowance, and to do all other acts which the Committee of Management may think necessary for the economic advantage of the members.

**5.** (1) Every member shall contribute Contributions. monthly a sum of not less than Rs. 5 and not exceeding Rs. 100. Such contributions shall be deducted monthly from the salary payable to such member from the Galle Municipal Council or other local authority commencing from the month following that in which he is admitted by the Committee of Management as a member:

Provided that, in the event of the death of a member while in service, no deduction shall be made from any salary due to him at the time of his death.

(2) Any member may on admission make an initial payment not exceeding Rs. 100.

**6.** (1) Every person seeking Authority to make deductions from salary of members. membership shall give, in the form approved by the Committee of Management, from time to time, an authority to the Municipal Commissioner of the Galle Municipal Council and in the

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event of his transfer to any other local authority to the Municipal Commissioner or Chairman of such local authority, as the case may be, to deduct from his monthly salary all amounts due from him to the Corporation in the event of his election as a member. A receipt issued by the Honorary Treasurer of the Corporation shall be a valid discharge of the amount deducted from such person's salary-

(2) No person shall be admitted as a member of the Corporation until he has given the aforesaid authority.

Committee of Management.

7. (1) The affairs of the Corporation shall, subject to the provisions of this Act and the rules of the Corporation, for the time being in force, be administered by a Committee of Management consisting of six members to be elected at each Annual General Meeting, in accordance with the provisions of this Act and the rules of the Corporation for the time being in force.

(2) At every first meeting of the members of the Committee of Management after their election, a President, a Vice-President, an Honorary Treasurer and an Honorary Assistant Treasurer shall be elected by each such Committee from among their number.

(3) The Honorary Secretary of the Corporation shall function as Honorary Secretary to the Committee of Management.

First Committee of Management.

8. (1) The first Committee of Management shall consist of the following members:—

- Mr. H. P. de Silva, President
- Mr. D. A. Baduge, Vice-President
- Mr. E. W. de Z. Abeyasekera, Honorary Treasurer
- Mr. H. de S. Dhannawickreme, Honorary Assistant Treasurer
- Mr. S. M. Jiffrey, Member
- Mr. F. E. A. Vanderputt, Member.

(2) Mr. G. C. Nanayakkara shall function as the Honorary Secretary to the first Committee of Management.

Who shall preside at, and quorum for, meetings of the Committee of Management.

9. (1) The President of the Corporation or in his absence, the Vice-President or in the absence of both the President and the Vice-President, a member of the Committee of Management elected

for the purpose by the members present at such meeting of the Committee shall preside.

(2) The quorum for a meeting of the Committee of Management shall be three members of such Committee.

10. (1) In the event of any casual vacancy occurring in the Committee of Management, other than a vacancy referred to in subsection (2), it shall be lawful for the remaining members of the Committee of Management to appoint another member of the Corporation to fill the vacancy, and any person so appointed to fill a casual vacancy, shall hold office for the unexpired portion of the term of the person in whose place he was appointed.

(2) When a member of the Committee of Management is removed from office consequent on the passing of a resolution expressing lack of confidence, at a Special General Meeting convened for the purpose, the vacancy or vacancies thus created shall be filled at the same Special General Meeting, and any person so elected shall hold office for the unexpired portion of the term of office of the person in whose place he was elected.

(3) The resignation of a member of the Committee of Management shall be by written notice given to the President, or in his absence to the Vice-President, and the resignation of such member of the Committee shall take effect from the date specified by him in such notice.

(4) In the event of any member of the Committee of Management absenting himself from three consecutive meetings of the Committee without reasonable excuse in writing, such member of the Committee shall *ipso facto* forfeit his membership of the Committee. Any vacancy thus created, shall be filled as specified in subsection (1).

11. (1) The Committee of Management 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 said Association, and every person thereafter duly admitted a member of the Corporation, shall have his name inscribed.

(2) The register shall contain the following particulars:—

- (a) the name, age on admission, address and official designation of each member;
- (b) the date on which any person commenced or ceased to be a member;
- (c) such other information as the Committee of Management may, from time to time, decide that the register should contain.

(3) All members of the said Association at the date of the coming into operation of this Act and whose names are duly inscribed in the register shall be deemed to have been members of the Corporation from the said date.

(g) the regulation of extraordinary loans to be given to members under section 34 and the prescribing of the conditions applicable to such loans including their nature and the guarantors to be accepted; and

(h) generally for the management of the affairs of the Corporation and the accomplishment of its objects.

(2) Pending the making of such rules, the rules of the said Association in force at the date of the coming into operation of this Act shall continue to be in force.

(3) No rule made and no decision come to at any General Meeting of the members shall be altered, added to, amended or cancelled, at any subsequent General Meeting except by a majority of two-thirds of the members present and voting.

(4) The rules of the Corporation for the time being shall bind the Corporation and all members thereof and all persons claiming through them respectively to the same extent as if each member had subscribed his name thereto and there were contained in such rules a covenant on the part of himself, his nominees, his heirs, executors and administrators to conform thereto subject to the provisions of this Act.

Rules.

**12.** (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, without prejudice to the generality of the powers hereby conferred, to make rules for any of the following purposes and for giving effect to the provisions of this Act;—

- (a) the admission, withdrawal or expulsion of members;
- (b) the determination and collection of contributions or other calls payable by members and the payment of moneys due to them;
- (c) the imposition of penalties and forfeitures for breach of rules;
- (d) the election, the powers, conduct and duties of the Committee of Management, and of the various officers, agents and servants of the Corporation;
- (e) the procedure in the transaction of business;
- (f) the withdrawal or refunding of any contributions;

**13.** It shall be lawful for the Corporation, by resolution passed at any General Meeting, to remunerate the services of any member or members of the Committee of Management, and of the Auditor or Auditors to be appointed in accordance with the provisions of this Act and the rules of the Corporation, and from time to time, to fix the amount of such remuneration, and to require such security from such member or members of the Committee of Management so remunerated as may be deemed sufficient.

Remuneration to member or members of Committee and Auditors.

**14.** The Honorary Secretary shall, upon the request of the Committee of Management or upon the written requisition of fifteen or more members of the Corporation, indicating the nature of the business to be transacted, call a Special General Meeting of the Corporation by giving seven clear days' notice thereof to the

Special General Meetings.

members, specifying the time and place of such meeting and the purpose for which it is to be held.

(3) The following business shall be transacted at an Annual General Meeting:—

Mismanagement by members of Committee of Management.

**15.** (1) If at any time it appears to the members that the affairs of the Corporation are mismanaged by a member or members of the Committee of Management, it shall be lawful for the members at a meeting convened under section 14, at which not less than one-third of the total membership of the Corporation on that date are present and by a majority of votes to pass a resolution expressing lack of confidence in any member or members of such Committee.

- (a) confirmation of the minutes of the previous meeting;
- (b) adoption of the report of the Committee of Management and audited statement of accounts;
- (c) election of a Committee of Management and an Honorary Secretary for the ensuing year;
- (d) determination of the remuneration to be paid to the Honorary Secretary, the Honorary Treasurer and the Auditors ; and
- (e) any other business of which due notice shall have been given to the Honorary Secretary.

(2) Where a resolution expressing lack of confidence in any member of such Committee is passed, such member shall forthwith cease to be a member of such Committee.

Annual General Meeting.

**16.** (1) An Annual General Meeting of the members of the Corporation shall be held in Galle not later than the thirty-first day of March in each year when there shall be submitted,—

**17.** Notice of resolutions to be proposed and questions to be raised at the Annual General Meeting shall reach the Honorary Secretary at least seven days prior to the date on which such meeting is due to be held.

Notice of resolutions and questions at Annual General Meeting.

- (a) a report of the Committee of Management on the working of the Corporation during the twelve months ending on the thirtieth day of September of the preceding year;
- (b) a balance sheet containing a statement of assets and liabilities of the Corporation on the thirtieth day of September of the preceding year and a statement of income and expenditure of the Corporation during the twelve months ending on the said thirtieth day of September; and
- (c) the Auditors' report.

**18.** The quorum of members required to constitute any Annual General Meeting or any Special General Meeting shall be fifteen:

Quorum for Annual General Meetings and Special General Meetings.

Provided that the quorum of members required to constitute a Special General Meeting convened for the purpose of discussing a resolution expressing lack of confidence in a member of the Committee of Management shall be one-third of the total membership of the Corporation.

(2) The balance sheet and the aforesaid statement of income and expenditure shall be prepared by the Honorary Treasurer and shall be duly examined by the Auditors who shall certify as to the correctness of such balance sheet and statement. The report of the Auditors shall include reference to any irregularities that they may have discovered and to any loans which may have been granted contrary to the rules of the Corporation.

**19.** The President of the Corporation shall vacate the Chair at each Annual General Meeting, or at any meeting held to discuss a resolution expressing lack of confidence in him. The members present at such meeting shall, by a majority vote, elect a Chairman *pro tern*.

Who shall preside at General Meetings.

**20.** No member of the Corporation who is two months in arrears with his monthly contributions under the rules of the Corporation shall be entitled to vote at any General Meeting, or Special General

Voting.

Meeting, of the Corporation, or if he is a member of (he Committee of Management at any meeting of that body.

Time limit for reconsideration of decision of General Meetings.

**21.** No decision arrived at by an Annual General Meeting or a Special General Meeting shall be reconsidered at a Special General Meeting within a period of twelve months unless the Committee of Management decides that it is a matter of importance and urgent necessity that such decision should be superseded.

Security from officers and servants.

**22.** It shall be lawful for the Committee of Management to require security to be given by any of the officers and servants appointed by such Committee, and to determine the nature and value of such security.

Debts due by and payable to Association.

**23.** All debts and liabilities of the said Association 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, contributions, fines and amounts of loans and advances payable to the said Association shall be paid to the Corporation for the purposes of this Act.

Funds of the Corporation, how to be kept and invested.

**24.** The funds of the Corporation shall be placed in the name of the Corporation in one or more of the local banks, and it shall be lawful for the Committee of Management, from time to time, to invest such part of the said funds as is not required for loans, withdrawals, and other current expenses in fixed deposits in one or more of the local banks, or in debentures, stock or other securities of the Government of Sri Lanka.

Funds of the Corporation, how operated on.

**25.** All cheques and orders against the said funds shall be signed by at least two members of the Committee of Management authorized in that behalf by the rules of the Corporation.

Powers of the Committee of Management.

**26.** The Committee of Management shall have the power—

- (i) to receive and recover all moneys due to the Corporation and to pay out of its funds in the manner provided for in the rules of the Corporation ;

- (ii) to enter into contracts or agreements on behalf of the Corporation and to determine who shall sign such contracts or agreements on behalf of the Committee of Management;

- (iii) to receive donations, contributions or grants made under any legal enactments of Sri Lanka or any voluntary contributions made by any person for promoting the objects of the Corporation;

- (iv) to incur such expenditure as may be necessary for the administration of the affairs of the Corporation;

- (v) to appoint, if necessary, any fit and proper person or persons, residing within the Galle Municipal limits on entering into a bond and on furnishing such security as the Committee of Management may determine from time to time, for the performance of clerical or accounting duties of the Committee of Management and to remunerate any such person or persons or any other persons for such services rendered at the express request of the Committee of Management;

- (vi) to make rules from time to time, by resolution with regard to the order of precedence which shall be followed in granting loans, the period within which such loans shall be repaid, the nature of the agreement which shall be entered into by the borrower and to decide on all matters connected with the grant of loans and their repayment not provided for in the rules of the Corporation;

- (vii) to impose duties on and assign functions to the Honorary Treasurer and Honorary Assistant Treasurer in addition to any duties and functions imposed on and assigned to them by this Act or by rules made thereunder;

- (viii) to consider and decide on applications received for the grant of loans;

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- (ix) to initiate legal action or other proceedings that it deems fit, against those who default in payment of loan balances due to the Corporation;
- (x) to suspend or expel any member who behaves in an unruly manner at a meeting of the Corporation;
- (xi) to determine what penalties should be imposed on any member who is expelled, suspended or discontinued or found guilty of breach of the rules, for any reason considered sufficient by the Committee of Management;
- (xii) to check accounts and balance of cash in hand at every monthly meeting of the Committee of Management and scrutinize the overdue loans.

Books of Accounts.

**27.** The Committee of Management shall cause the following Books of Accounts to be kept;—

- (i) Cash Book.
- (ii) General Ledger.
- (iii) Journal.
- (iv) Loans Register.
- (v) Register of Members.
- (vi) Register of Death Donation and Retiring Allowance paid to members.
- (vii) Register of Administrative Refunds.
- (viii) A Pass Book for each member.

Inspection of Books of Accounts,

**28.** The Books of Accounts shall be open at all reasonable times for inspection by members of the Corporation, after reasonable notice is given to the President.

Functions of Honorary Secretary.

**29.** The Honorary Secretary shall convene meetings, keep the books relating to the secretarial duties and attend to all correspondence of the Corporation and any other work entrusted to him by the Committee of Management.

**30.** The Honorary Treasurer shall be in charge of all Books of Accounts and receive all moneys on behalf of the Corporation. On the direction of the Committee of Management, he shall make disbursements. He shall sign Pass Books and Ledgers. He shall place all the moneys received on behalf of the Corporation, in the Bank of Ceylon, Galle, or in any other bank approved by the Committee of Management. He shall sign the Cash Book and testify as to its accuracy and produce the cash balance whenever called upon to do so by the Committee of Management or by the Auditors.

Functions of Honorary

**31.** The Honorary Assistant Treasurer shall assist the Honorary Treasurer whenever requested to do so and act for him in his absence.

Functions of Honorary Assistant Treasurer.

**32.** Subject to the rules of the Corporation, a loan not exceeding a sum equivalent to the total contributions lying to the credit of a member and one month's advance of basic salary, may be granted to a member of the Corporation after he has contributed to the funds of the Corporation for a period exceeding three months. Applications for such loans shall receive priority in the order in which they are received:

General Loan scheme-

Provided that the amount of any loan to be granted under this section to any member drawing a basic monthly salary exceeding rupees four hundred and fifty shall not exceed two-thirds of such salary.

**33.** Where on the production of a death certificate the Committee of Management is satisfied that a death has occurred in a family of a member, the Committee may grant such member a special loan not exceeding rupees two hundred carrying interest at six *per centum* per annum and repayable in twenty monthly instalments-

Special loan scheme.

**34.** For the purpose of redeeming any debt, the Corporation may, on the guarantee of any other member, grant to any member a special loan not exceeding rupees one thousand, or such sum as may be decided at any Annual General Meeting.

Special loans to redeem indebtedness of members.

**35.** Every loan granted to a member under sections 32 and 34 shall carry interest at half *per centum* per calendar month or

Interest on loans.

part thereof and such interest shall be deducted monthly, from the salary of such member.

payment of a penalty of three rupees and an entrance fee of one rupee:

Provided, however, that no person shall be re-enrolled if he has resigned voluntarily on more than two occasions.

**36.** With the approval of the Committee of Management, a member may, where no loan or part thereof is due from him to the Corporation, withdraw a sum not exceeding half the total contributions lying to his credit, on completion of two years continuous membership. Such withdrawal shall not preclude a member at the same time or thereafter from obtaining a loan under section 32.

**40.** On the retirement, resignation or dismissal of a member from the Galle Municipal Service or the Local Government Service or on his withdrawal from membership of the Corporation he shall be paid the amount lying to his credit after deducting any sums of money due from him to the Corporation. In the event of the death of a member while in such service, the amount lying to the credit of the member shall, after deducting any sums due from him to the Corporation, be paid to the person nominated in the member's application for enrolment, or in a subsequent notification, or in the absence of such nominee, to the legal heirs of the deceased member.

Death, retirement, dismissal, &c.

**37.** No subsequent withdrawal of contributions by a member shall be authorized, until two years have elapsed from the date of the previous withdrawal.

**38.** (1) The accounts of the Corporation shall be audited by two Joint Auditors appointed by the Corporation. In the absence of any such appointment the accounts of the Corporation for any year ending on the thirtieth day of September, shall be audited by an Auditor appointed for the purpose by the Committee of Management.

**41.** (1) Every member on his retirement, resignation or dismissal from the Galle Municipal Service or the Local Government Service, after having regularly subscribed for twenty-four months shall be entitled to receive a death donation and retiring allowance calculated at the rates set out in the Schedule hereto. In the event of a member dying while in such service after having continuously subscribed for twenty-four months, the death donation and retiring allowance shall be paid to his nominee or nominees, or his legal heirs or dependants. The amount of any donation, so paid may be recovered equally from every member in such sums not exceeding five rupees per month.

Payment of Death Donation and Retiring Allowance.

(2) No person shall be appointed as Auditor unless he is—

- (a) a member of the Institute of Chartered Accountants of England and Wales or of any Society incorporated by Royal Charter whose members are entitled to use the designation "Chartered Accountant"; or
- (b) a member of the Society of Incorporated Accountants and Auditors of Great Britain; or
- (c) a public auditor appointed under section 18 of the Societies Ordinance.

(2) During the first twelve months of enrolment, no member shall be called upon to pay any contributions towards the death donation and retiring allowance scheme.

(3) Any member who has completed ten years of continuous membership in the Corporation, shall, at the time of retirement from the Galle Municipal Service or the Local Government Service, be entitled to receive five years added to his membership for the purpose of calculating the death donation and retiring allowance.

**39.** Any person who has resigned from membership of the Corporation shall be eligible for re-enrolment as a member on

Re-enrolment of members.

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(4) The contributions of any member towards the death donation and retiring allowance scheme, shall cease on the completion of twenty-one years of membership of the Corporation.

(5) No member shall be paid such donation and retiring allowance if he voluntarily resigns from the Corporation unless he has been re-enrolled.

Member's Pass Book-

**42.** Every member shall be given a Pass Book in which all his transactions with the Corporation shall be entered. A Pass Book lost by a member shall be replaced on payment of one rupee.

Consolidated Benefit Fund.

**43.** Every member shall contribute monthly to the Corporation, a sum not less than five rupees towards the Consolidated Benefit Fund, which amount shall be refunded only on retirement, resignation or dismissal from the Galle Municipal Service or the Local Government Service or in the event of his death while in such service to his nominees, if any, or legal heirs.

Forfeiture of membership,

**44.** Any member who fails to contribute gn sums due from him to the Corporation for a period exceeding three consecutive months, shall forfeit his membership and all the rights and privileges of a member;

Provided that the Committee of Management may at its discretion restore his membership and all the rights and privileges of a member on sufficient proof that the member failed to contribute to the Corporation due to sickness or similar circumstances and on payment of all arrears of dues to the Corporation.

**45.** Where a member forfeits his membership of the Corporation in terms of section 44 of this Act, all sums of money due from the member shall be deducted in monthly instalments as agreed upon in the agreement entered into by the member, and any balance remaining to the credit of such member after such deductions shall be refunded to him.

Amounts due from a member who has forfeited his membership.

**46.** A member may resign from membership of the Corporation after giving one calendar month's notice. The Committee of Management at its discretion, may accept the resignation without prejudice to any steps that the Committee of Management may take to recover all amounts due from such member.

Voluntary resignation.

**47.** On any matter not provided for in this Act or in the rules of the Corporation, the decision of the Committee of Management shall be final.

Decision of Committee of Management to be final.

**48.** The seat of the Corporation shall not be affixed to any instrument whatsoever, except in the presence of any 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.

Seal of the Corporation how affixed.

**49.** 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 the foregoing provisions of this Act, and those claiming by, from or under them.

Saving of rights of the Republic and others.

**SCHEDULE**

[Section 41.]

Rates of death donation and retiring allowance payable to retiring members.

*Period of membership of member*

*Amount of death donation and retiring allowance payable so a member for each year of membership*

	Rs. c.
1 Year	Nil
2 Years	0 50
3 Years	0 75



**GALLE MUNICIPAL STAFFS BENEVOLENT ASSOCIATION**

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*Period of membership  
of member*

*Amount of death donation  
and retiring allowance  
payable So a member for  
each year of membership*

	<i>Ss. c.</i>
4 Years	1 00
5 Years	1 25
6 Years	1 50
7 Years	1 75
8 Years	2 00
9 Years	2 25
10 Years	2 50
11 Years	2 75
12 Years	3 00
13 Years	3 25
14 Years	3 50
15 Years	3 75
16 Years	4 00
17 Years	4 25
18 Years	4 50
19 Years	4 75
20 Years	5 00
21 Years	5 25
22 Years	5 50
23 Years	5 75
24 Years and over	6 00

**CHAPTER 475**

**GOVERNMENT OFFICERS' BENEFIT ASSOCIATION**

*Act* AN ACT TO INCORPORATE THE GOVERNMENT OFFICERS' BENEFIT ASSOCIATION.  
 No- 27 of 1971.

[28th June. 1971]

**Short title.** 1. This Act may be cited as the Government Officers' Benefit Association (Incorporation) Act.

**Incorporation of the Government Officers' Benefit Association.** 2. The persons who, on the date of commencement of this Act, are members of the Government Officers' Benefit Association (hereinafter referred to as "the Association ") and such other persons as are hereafter enrolled as members of that Association, shall be and become a corporation with perpetual succession under the name and style of "The Government Officers' Benefit 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 use a common seal and alter that seal at its Pleasure-

**Objects of the Corporation.** 3. The following shall be the objects of the Corporation:—

- (a) to promote thrift among its members;
- (b) to give relief to members in times of sickness, distress or pecuniary difficulties;
- (c) to grant loans to members for such purposes as the Corporation may, from time to time, determine in accordance with the rules of the Corporation;
- (d) to establish and administer a retirement benefit scheme for the benefit of the members in accordance with the rules of the Corporation;
- (e) to establish and administer a savings scheme in accordance with the rules of the Corporation;

(f) to establish and administer a death donation scheme in accordance with the rules of the Corporation; and

(g) to do all such other things, in accordance with the rules of the Corporation, as may be necessary for the benefit of the members.

4. (1) The affairs of the Corporation shall, subject to the provisions of this Act and the rules for the time being of the Corporation made as hereinafter provided, be administered by a Committee of Management consisting of the President, two Vice-Presidents and such number of other members of the Corporation, as may be determined by the rules, and elected in accordance with the rules for the time being in force of the Corporation, and one public officer to be appointed by the Secretary to the Treasury.

Affairs of the Corporation to be administered by a Committee of Management.

(2) The Committee of Management may delegate the administration of any portion or portions of the affairs of the Corporation to one or more Sub-Committees to be elected for the purpose by such Committee of Management.

(3) The first members of the Committee of Management shall consist of the President, the two Vice-Presidents and the other members of the Committee of Management of the Association holding office at the time of the coming into operation of this Act, who shall function until the first general meeting of the members of the Corporation.

5. The Committee of Management shall, subject to the provisions of this Act and of any rules made as hereinafter provided, have full power and authority generally

Powers of committee of Management

to govern, direct, and decide all matters whatsoever connected with—

- (a) the appointment and dismissal of officers, agents, and servants of the Corporation;
- (b) the administration of the affairs of the Corporation; and
- (c) the accomplishment of the objects thereof of the Corporation:

Provided that the Committee of Management shall not exercise any powers which are by this Act or by any rules declared to be exercisable by the Corporation in general meeting;

Provided, further, that no rule made by the Corporation in general meeting shall invalidate any prior act of the Committee of Management which would have been valid if such rule had not been made.

Register of members.

6. The Committee of Management shall cause a register to be kept in which every person who at the date of passing of this Act is a member of the Association, and every person thereafter duly admitted a member of the Corporation hereby constituted, shall have his name inscribed.

Books of accounts.

7. The Committee of Management shall cause proper books of accounts to be kept. Such books shall at all reasonable times be made available for inspection by the members of the Corporation and any person or persons whom the Secretary to the Treasury may at any time appoint for the purpose of inspection.

General meetings.

8. (1) The Secretary and Accountant shall, upon the direction of the Committee of Management, or the President, or upon the written requisition of fifty or more members of the Corporation, call a general meeting.

(2) No general meeting shall be held unless the quorum of the members prescribed by the rules be present, and unless at least fourteen days' notice specifying the time and place of such meeting and the purpose for which it is to be held, has been given by advertisement in one or more local daily newspapers, or in

such other manner as may be required by any rule made by the Corporation ; and no business shall be brought before or transacted at such meeting other than the business specified in such notice.

9. The annual general meeting of the members of the Corporation shall be held not later than the thirtieth of June in each year, when there shall be submitted a balance sheet, an income and expenditure account, an account of receipts and disbursements and other accounts required under the rules of the Corporation in respect of the twelve months ending on the thirty-first of December preceding, all of which shall be prepared by the Secretary and Accountant and duly audited and certified by the Corporation's auditors. Annual general meeting.

10. (1) It shall be lawful for the Corporation, from time to time, at any general meeting of the members and by a majority of the votes of not less than two-thirds of such members of the Corporation entitled to vote under the rules of the Corporation as are present at a general meeting of the members, without prejudice to the generality of the powers conferred on the Corporation, to make rules for any of the following purposes and for giving effect to the provisions of this Act:— Power to make rules-

- (a) the admission, suspension, withdrawal or expulsion of members;
- (b) the election, the powers, conduct and duties of the Committee of Management and the conduct and duties of the various officers, agents and servants of the Corporation;
- (c) the determination and collection of contributions, subscriptions and other calls payable by members, the payment of moneys due to members and the payment of advances and donations to members or their nominees, their widows or widowers, as the case may be, and their legitimate children or heirs-at-law;
- (d) the imposition of fines, forfeitures and penalties for breaches of rules ;

- (e) the regulation of loans to be given to members and the prescribing of conditions relating to the grant of such loans and the interest payable thereon;
- (f) the establishment and regulation of schemes for the benefit of the employees of the Corporation and the establishment of any funds;
- (g) the procedure to be observed at meetings and in convening meetings and in the transaction of the business of the Corporation; and
- (h) generally for the management of the affairs of the Corporation and the accomplishment of its objects.

(2) Any rule made by the Corporation may be altered, added to, amended, or rescinded in the same manner as a rule may be made under subsection (1).

(3) No rule, alteration, addition, amendment or rescission shall have effect or be binding upon the members of the Corporation until the same is confirmed by the Minister in charge of the subject of Finance and notice of such confirmation is published in the Gazette.

(4) Pending the making of rules under this section, the affairs of the Corporation shall be administered, subject to the provisions of this Act, as nearly as may be in accordance with the rules of the Association for the time being in force.

(5) All members of the Corporation shall at all times be subject to the rules for the time being of the Corporation.

Secretary and Accountant.

**11.** The Committee of Management shall subject to his consent select an officer of the public service with the approval of the Government to act in the office of Secretary and Accountant to the Corporation, and the officer so appointed shall be seconded by the Government on such terms and conditions as may be agreed upon, from time to time, between the Government and the Committee of Management with the consent of the said officer, and he shall furnish security in such amount and in such manner as the said Committee may, from time to time, direct.

**12.** On the coming into operation of this Act all property belonging to the Association, whether held in the name of the Association or in the name of any person or persons in trust for the Association, 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, fines, amounts of loans and advances received or to be received, shall be held by the Corporation for the purposes of this Act and subject to the rules for the time being of the Corporation.

Property vested in Corporation.

**13.** All the debts and liabilities of the Association 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, contributions, fines, and amounts of loans and advances payable to the Association shall be paid to the Corporation for the purposes of this Act.

Debts due by, and payable to, the Association.

**14.** 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 Act.

Corporation may hold property, movable and immovable.

**15.** It shall not be lawful for the Corporation to sell, exchange or mortgage, or otherwise dispose of, encumber or charge, other than to lease, any of the lands held by the Corporation except by a resolution passed by a majority of not less than three-fourths of such members of the Corporation entitled to vote under the rules of the Corporation as are present at a general meeting of the members.

Restriction on sales &c of land

**16.** 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 authorized in that behalf by 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 Corporation how affixed.

Funds of the Corporation how to be kept and invested.

17. The funds of the Corporation shall be placed in the name of the Corporation at one or more banks in Sri Lanka, as may be decided by the Committee of Management, and it shall be lawful for the Committee of Management from time to time to invest such part of the said funds as is not immediately required for the purposes of the business of the Corporation or in connexion with the management of its affairs and the achievement of its objects in such manner as may be provided for in the rules of the Association.

Corporation shall not exceed the sum determined by the Committee of Management.

19. In case any doubt or ambiguity shall arise, and any controversy shall take place, among the members of the Corporation and of the Committee of Management or either of them, as to the interpretation of this Act, or as to the powers of the Committee of Management, the same shall be referred to the Secretary to the Treasury, whose decision shall be final and conclusive.

Borrowing powers.

18. It shall be lawful for the Corporation to raise funds for the accomplishment of its objects and for such purpose to create, execute, grant or issue any mortgages, bonds or obligations :

20. Nothing in this Act contained shall prejudice or 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.

Provided that the aggregate of the amounts which may be so raised by the

CHAPTER 483

GOVERNMENT SURVEYORS' ASSOCIATION

Ordinance No. 14 of 1939. AN ORDINANCE TO INCORPORATE AN ASSOCIATION KNOWN AS THE GOVERNMENT SURVEYORS' ASSOCIATION.

[21st March, 1939.]

Short title. 1. This Ordinance may be cited as the Government Surveyors' Association Ordinance. majority of votes to make rules for any of the following purposes :—

Incorporation. 2. From and after the date of the commencement of this Ordinance, the members for the time being of the Government Surveyors' Association (hereinafter referred to as "the association ") and such and so many persons as shall after that date be admitted members of the corporation hereby constituted shall be and become a body corporate with perpetual succession under the name and style of "The Government Surveyors\* Association" (hereinafter referred to as "the corporation "), and by that name may sue and be sued in all courts. (a) the admission, withdrawal or expulsion of members; (b) the powers, conduct, duties and functions of the various officers, agents and servants of the corporation; (c) the procedure to be observed at meetings and in convening meetings and in the transaction of the business of the corporation; (d) the administration and management of the property of the corporation;

General objects. 3. The general objects for which the corporation as constituted are— (a) to administer the benevolent fund created by the association; (b) to promote thrift among its members; (c) to give relief to all duly enrolled members of the benevolent fund in times of sickness, distress or pecuniary difficulties and to render such other assistance as may be found necessary in accordance with the rules of the corporation; (d) to take such other measures as may be necessary for the purposes of the corporation. (e) fixing the subscription payable by members, the collection of such subscription and the payment of moneys due to members ; (f) the imposition of penalties and forfeitures for breaches of the rules; and (g) generally the management of the affairs and the accomplishment of the objects of the corporation. (2) No rule made by the corporation shall have effect unless such rule has been approved by the Minister. (3) All members of the corporation shall at all times be subject to the rules for the time being of the corporation.

Rules. 4. (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 any of the following purposes :— 5. No rule made by the corporation at a general meeting shall be altered, amended or revoked except by a majority of members Alteration of rules-

present and voting at any subsequent general meeting; and no such alteration, amendment or revocation shall have effect unless it has been approved by the Minister.

the corporation and such property together with all after-acquired property, both movable and immovable, and all subscriptions, donations, penalties, 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 corporation.

Power of corporation to hold property.

**6.** 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.

**8.** (I) It shall be competent for the corporation to have and to use a seal and to change and alter its seal from time to time.

Seal of corporation.

(2) The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of two of its members 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.

Vesting of property.

**7.** From and after the date of the commencement of this Ordinance all property of the association, both movable and immovable, whether held in the name of the association or in the name of any person or persons in trust for the association, shall be and is hereby vested in

**9.** Nothing in this Ordinance 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 Ordinance and those claiming by, from or under them.

Saving of rights of the Republic and others.

## CHAPTER 516

## GRAMABHIWURDHI SADHAKA SOCIETY

Act No. 12 of 1957. AN ACT TO INCORPORATE THE GRAMABHIWURDHI SADHAKA SOCIETY OF SARIKKALIMULLA IN MORATUWA.

[18th March, 1957.]

Short title. **1.** This Act may be cited as the Gramabhiwurdhi Sadhaka Society (Incorporation) Act.

Incorporation of Gramabhiwurdhi Sadhaka Society. **2.** The members for the time being of the society known as Gramabhiwurdhi Sadhaka Society established at Sarikkalimulla in Moratuwa (hereinafter referred to as the "society") shall be a body corporate (hereinafter referred to as the "corporation") with perpetual succession, a common seal and the name "Gramabhiwurdhi Sadhaka Society". The corporation may sue and be sued in such name.

General objects of the corporation. **3.** The following shall be the general objects of the corporation:—

- (a) Maintenance of Samayalankara Buddhist Sunday School.
- (b) The study and propagation of Buddhism.
- (c) The practical observance of Buddhism and the encouragement to Buddhists of living according to the principles of Buddhism.
- (d) Maintenance of Sri Thaksala Vidyalaya, presently a Senior Secondary English School.
- (e) Periodical investigations of the Iron Works School and, when necessary, recommending to the Department of Industries improvements to that school.
- (f) The advancement of the physical, intellectual and social welfare of members.

(g) The promotion of unity and co-operation among the people of the village in which the society is established.

**4.** (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 president, the two vice-presidents, the honorary general secretary, and the honorary treasurer of the corporation and ten other members elected to that committee in accordance with the rules for the time being of the corporation. Committee of management.

(2) The first committee of management shall consist of the following:—

C. T. Perera, Esq., (President), W. A. William Silva, Esq., (Vice-President), Bertie W. Peiris, Esq., (Vice-President), P. V. D. S. Perera, Esq., (Honorary Secretary), D. S. Goonewardene, Esq., (Honorary Assistant Secretary), K. Rubert S. Peiris, Esq., (Honorary Treasurer), P. A. Sirisena Perera, Esq., L. L. Dharmadasa, Esq., B. A. Peter Dias, Esq., W. A. Simon Dharmasena, Esq., L. D. R. Piyasena, Esq., P. A. Jayaweera Perera, Esq., W. Chandrasena, Esq., M. A. Sirisena, Esq., and B. M. Sirisena, Esq.

**5.** (1) The corporation may make rules relating to the admission, suspension or expulsion of members, the duties of the committee of management and of the various officers, agents and servants of the corporation, the procedure in the Rules.



transaction of business and the management of the affairs of the corporation and the accomplishment of its objects.

or payable to the society shall be paid to the corporation.

(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.

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 members of the committee of management 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.

(3) Any rule of the corporation may be amended or rescinded or any rule may be added to the rules of the corporation by a resolution approved by the committee of management and passed by a majority of not less than two-thirds of such members of the corporation entitled to vote under the rules of the corporation as are present at a general meeting of the members.

8. The corporation may acquire and hold any property, movable or immovable, by right of purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the corporation subject to the rules for the time being of the corporation. Corporation may hold property.

(4) The members of the corporation shall be subject to the rules in force for the time being of the corporation.

Debts due by and payable to the society.

6. All the debts and liabilities of the society existing at the time of the coming into operation of this Act shall be paid and discharged by the corporation, and all the debts, subscriptions and contributions due

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 others.

\* Schedule omitted.—Private enactment,

**CHAPTER 401**

**GALLE YOUNG MEN'S BUDDHIST ASSOCIATION**

Act  
No. 3 of 1954.

AN ACT TO INCORPORATE THE YOUNG MEN'S BUDDHIST ASSOCIATION, GALLE.

[23rd January, 1954.]

Short title.

**1.** This Act may be cited as the Young Men's Buddhist Association, Galle, Act.

(2) All the members of the corporation shall be subject to the rules in force for the time being of the corporation.

Incorporation of the Young Men's Buddhist Association, Galle.

**2.** The members for the time being of the association known as the Young Men's Buddhist Association, Galle, shall be a body corporate (hereinafter referred to as "the corporation ") with perpetual succession and the name " Young Men's Buddhist Association, Galle ". The corporation may sue and be sued in such name.

(3) The first committee of management shall consist of the following persons :—

- D. S. Gunasekera, Esq., President.
- H. W. Amarasuriya, Esq., Vice-President.
- W. D. S. Abeygoonewardena, Esq., Vice-President.
- P. B. de Silva, Esq., J.P., U.M., Vice-President.
- H. de S. Kularatne, Esq., J.P., U.M., Vice-President.
- Dr. F. Abeysuriya, Vice-President.
- A. D. H. Weeratunga, Esq., M.M.C., Deputy Mayor of Galle, Honorary General Secretary.
- M. S. Jayawickrema, Esq., Honorary Treasurer.
- L. M. Gunawardena, Esq., Warden of the Night School and the Hostel.
- J. Nanayakkara, Esq., Religious Secretary.
- W. Samarasekera, Esq., Sports Secretary.
- N. B. Marshall de Silva, Esq., Billiards and Indoor Games Secretary.
- B. D. P. de Silva, Esq., Literary Secretary.
- P. P. Attygala, Esq., Social Secretary.
- A. de Silva, Esq., Librarian.
- S. Wijesinghe, Esq., Building Secretary.
- C. W. Goonewardena, Esq.
- R. Wickremasingha, Esq.
- D. C. Kulawardena, Esq.
- U. L. Tranchel de Silva, Esq.
- A. W. Adihetty, Esq.
- H. Weerasekera, Esq.

Objects of the corporation.

**3.** The general objects of the corporation are hereby declared to be—

- (a) the study, observance and propagation of Buddhism,
- (b) the promotion of a spirit of fellowship among Buddhists,
- (c) social service, and
- (d) the advancement of the physical, intellectual and social welfare of the members of the corporation.

Committee of management.

**4.** (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 president, five vice-presidents, the honorary general secretary, the honorary treasurer, the warden of the night school and the hostel, the religious secretary, the sports secretary, the billiards and indoor games secretary, the literary secretary, the social secretary, the librarian and the building secretary, for the time being of the corporation and six other members of the corporation elected at the annual general meeting of the corporation.

**5.** (1) The corporation may, at a general meeting thereof and by a majority of votes of the members of the corporation present,

make rules for the admission, withdrawal or expulsion of members of the corporation, for the performance of the duties of the committee of management and the other officers 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.

(2) Any rule of the corporation may be amended or rescinded by a vote of two-thirds of the members present at a general meeting of the corporation.

(3) Subject to the preceding provisions of this section, the rules set out in the Schedule\* to this Act shall be the rules of the corporation.

Debts due by and payable to association.

**6.** All the debts of the Young Men's Buddhist Association, Galle, existing at the time of the coming into operation of this Act shall be paid by the corporation and all the debts due to and all the subscriptions and contributions payable to that association shall be paid to the corporation.

**7.** The corporation shall have a seal, and the seal may be altered at the pleasure of the corporation. The seal shall not be affixed to any instrument whatsoever except in the presence of the president of the corporation or, in his absence, a vice-president, and of the honorary treasurer thereof, 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 seal of the corporation.

**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 of the corporation, may sell, mortgage, lease, exchange or otherwise dispose of any movable or immovable property of the corporation.

Corporation may hold property.

**9.** 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.

\* Schedule omitted.—Private enactment.

HOMOEOPATHY

CHAPTER 117

HOMOEOPATHY

Act No. 7 of 1970.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A HOMOEOPATHIC COUNCIL WHICH WILL BE RESPONSIBLE FOR CARRYING OUT THE FOLLOWING OBJECTS, NAMELY, THE PROMOTION AND ENCOURAGEMENT OF THE HOMOEOPATHIC SYSTEM OF MEDICINE, THE REGISTRATION OF HOMOEOPATHIC PRACTITIONERS, THE RECOGNITION OF HOMOEOPATHIC INSTITUTIONS, THE REGULATION AND CONTROL OF THE IMPORTATION, SALE AND DISPENSING OF HOMOEOPATHIC MEDICINES, DRUGS AND OTHER PREPARATIONS AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

[1st March, 1979.]

Short title.

1. This Act may be cited as the Homoeopathy Act.

under this Act, in accordance with such regulations as may be made in that behalf by the Minister under this Act.

PART I

ESTABLISHMENT OF HOMOEOPATHIC COUNCIL

Establishment of Homoeopathic Council,

2. (1) There shall be established a Council to be called the Homoeopathic Council (in this Act referred to as "the Council") which shall consist of the persons who are for the time being members of the Council under section 3.

(4) There shall be a president of the Council who, during the period of ten years commencing on the appointed date, shall be appointed by the Minister from among the members of the Council.

(5) During the period of five years commencing on the appointed date, the Council may, subject to the provisions of section 14 relating to the quorum for a meeting of the Council, act, notwithstanding that all the seven members of the Council have not been appointed by the Minister.

(2) The Council 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 that name, and may hold, acquire and dispose of any property, movable or immovable.

4. A person shall be disqualified from being elected or appointed as a member of the Council—

Disqualification for membership of the Council

(a) if he is less than twenty-five years of age; or

(b) if he is under any written law found or declared to be of unsound mind ; or

(c) if he is an undischarged bankrupt or insolvent, or

(d) if he is an employee of the Council; or

(e) if he is convicted by a competent court of an offence involving such degree or moral turpitude as in the

Constitution of the Council.

3. (1) The Council shall consist of seven members.

(2) During the period of ten years commencing on the appointed date, the members of the Council shall, subject to the provisions of section 5, be appointed by the Minister.

(3) After the expiration of the period of ten years referred to in subsection (2), the members of the Council shall be elected, by the homoeopathic practitioners registered

opinion of the appointing or electing authority renders him unfit to be a member of the Council.

Notice of intention to appoint the first members of the Council.

**5.** (1) Before appointing the first members of the Council, the Minister shall, by notice published in the Gazette and in such other manner as he may deem best calculated to give publicity thereto,—

- (a) declare his intention to appoint such members; and
- (b) request all interested parties to recommend to him, before such date as shall be specified in the notice, the names of not more than three persons, being persons who are qualified for membership of the Council and who, in their opinion, are fit and proper persons to be such members.

(2) No person other than a person entitled to be registered as a homoeopathic practitioner under the provisions of this Act shall be appointed as a member of the Council.

Appointment of members in the event of default in election.

**6.** If after having been given an opportunity to do so, there is default on the part of Registered Homoeopathic Practitioners in the election of a member of the Council, then, the Minister may, in lieu of such election, appoint a duly qualified person as such member ; and the member so appointed shall be deemed, for all the purposes of this Act, to be a member duly elected by such practitioners.

Notification in the Gazette of the appointment or election of members.

**7.** The Minister shall cause the appointment or election of a member of the Council to be notified in the Gazette. Such notification shall state the name and designation, if any, of the member, and the date of the commencement of the term of office of the member, being a date which is either the date of the publication of such notification in the Gazette, or a date earlier or later than the date of such publication.

Term of office of members.

**8.** Every member of the Council, including the president, shall, unless he vacates office earlier, hold office for a term of five years:

Provided that the person elected or appointed as the president or as a member of the Council in succession to any person who has ceased to be the president or a member of the Council 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 president or the member, as the case may be, whom he succeeds.

**9.** A member of the Council shall be deemed, for the purposes of this Act, to have vacated his office—

Vacation of office by members.

- (a) if he dies; or
- (b) if, being the president, he sends his resignation in writing, as such member to the Minister; or
- (c) if, not being the president, he sends his resignation in writing to the president; or
- (d) if he is absent, without excuse sufficient in the opinion of the Council, from three consecutive meetings of the Council; or
- (e) if, having been appointed or elected as such member by virtue of his being, or in his capacity as, a Registered Homoeopathic Practitioner, he ceases to be such practitioner; or
- (f) on his removal from office by the Minister under this Act; or
- (g) on his removal from office by a decision of the Council which has taken effect as provided in this Act; or
- (h) on the expiry of his term of office; or
- (i) if he becomes subject to any of the disqualifications specified in section 4.

**10.** Any vacancy in the office of a member of the Council shall be filled by the appointment or election of a member, as the case may be, in accordance with the Filling of vacancies.

provisions of this Act. Any person who has vacated his office as a member, otherwise than by removal by the Minister or the Council, shall be eligible for reappointment or re-election as a member, as the case may be.

(b) that he has so abused his position as a member of the Council as to render his continuance in office detrimental to the interests of the Council.

Removal of members from office.

**11.** (1) The Minister may, without assigning any reason, remove from office, by Order published in the Gazette, any appointed or elected member of the Council. In the exercise of his powers under the preceding provisions of this section the Minister may act either on his own motion or on any recommendation made to him by the Council under subsection (2). Such Order shall take effect on the date of such publication.

(5) Any member of the Council who is aggrieved by the decision of the Council to remove him from office may, within a period of fourteen days after the service on him of the notice of such decision, prefer a written appeal against such decision to the Minister. The Minister may on such appeal, after giving both the Council and the appellant an opportunity of being heard, make an order either confirming or rejecting such decision. The Minister shall cause a notice of his order on such appeal to be served on both the appellant and the Council.

(2) The Council may recommend to the Minister that any appointed or elected member of the Council shall be removed from office on any ground specified in subsection (4).

**12.** The Council shall, in the exercise of its powers or the discharge of its 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.

The Council to be subject to The general or special directions of the Minister.

(3) The Council may remove from office any elected member of the Council on any ground specified in subsection (4). A written notice of the decision of the Council to remove such member shall be served on such member by the Council, No such decision shall take effect—

**13.** Subject to the provisions of this Act, the procedure of the Council shall be regulated by rules made under this Act or, in the absence of such rules, by the Council-

Procedure of the Council.

(a) where no appeal against the decision is preferred to the Minister under subsection (5) within the period stated therein, until the expiry of that period; and

**14.** The quorum for a meeting of the Council shall be five.

Quorum.

(b) where an appeal is so preferred, unless and until the decision is confirmed on such appeal.

**15.** The president shall preside at every meeting of the Council at which he is present. If he is not present at any meeting of the Council, the members attending such meeting shall elect from among themselves a chairman for such meeting.

Presiding authority at meetings of the Council.

(4) The Council may recommend to the Minister under subsection (2) that any member of the Council shall be removed from office, or may remove from office any elected member of the Council under subsection (3), on any of the following grounds:—

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

Proceedings of the Council.

(a) that, being an attorney-at-law, he has appeared in any legal proceedings, whether civil or criminal, against the Council.

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

(3) The Council shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings

of, or any act or thing done by, the Council shall be valid notwithstanding that it was subsequently discovered that some person not entitled so to do sat or voted or otherwise took part in such proceedings.

Minutes of proceedings.

**17.** (1) The minutes of the proceedings of every meeting of the Council shall be entered in a book to be kept for the purpose and shall be signed by the chairman of the meeting.

(2) A copy of the minutes of the proceedings of every meeting of the Council shall, within fifteen days from the date of the meeting, be forwarded to the Minister.

Remuneration for attendance at meetings of the Council.

**18.** The members of the Council may be paid such remuneration for attendance at meetings of the Council as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Delegation of powers, functions and duties of the Council to committees.

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

Registrar and other officers and servants of the Council.

**20.** (1) There shall be a registrar of the Council who shall also be the secretary of the Council.

(2) At the request of the Council, any Assistant Secretary to the Ministry may, with his consent and the consent of the Secretary to the Treasury, be temporarily appointed as registrar for such period as shall be determined by the Council with like consent.

(3) 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 Assistant Secretary to the Ministry who is temporarily appointed as registrar of the Council.

(4) The Council may appoint such officers and servants of the Council as may be necessary for carrying out the work of the Council.

\* Repealed by Transport Board Law, No. 19 of 1978.

(5) 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 under this Act.

(6) The Council may in accordance with rules made 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 Homoeopathic Fund.

**21.** (1) The common seal of the Council shall be in the custody of the secretary of the Council.

(2) The common seal of the Council may be altered in such manner as may be determined by the Council.

(3) The common seal of the Council shall not be affixed to any instrument or document except in the presence of the registrar and two members of the Council all of whom shall sign the instrument or document in token of their presence.

**22.** Subject to the availability of moneys in the Homoeopathic Fund, the Council shall be responsible for carrying out the following objects:—

(a) the regulation and control of the practice of medicine according to homoeopathy;

(b) the promotion and encouragement of the practice of medicine according to homoeopathy;

(c) the promotion and encouragement of the study of, and research in, homoeopathy;

(d) the establishment and maintenance of a Homoeopathic Medical College;

(e) the taking, development or encouragement of measures for the investigation of diseases, and for the improvement of public health, according to homoeopathy ;

(f) the regulation and control of homoeopathic institutions; and

(g) the regulation and control of the manufacture, importation, sale and distribution of homoeopathic medicines, drugs and other preparations.

Powers of the Council.

**23.** (1) The Council shall have the following powers :—

(a) to register homoeopathic medical practitioners;

(b) to recognize homoeopathic institutions, and to determine the circumstances in which such recognition shall be granted or refused;

(c) to prescribe the courses of study, curricula of general instruction or special or refresher courses in recognized homoeopathic institutions;

(d) to hold examinations and to grant and confer degrees on, and diplomas to, persons who have pursued a course of study in recognized homoeopathic institutions;

(e) to demand and receive from students such fees as may be prescribed for admission to the examinations conducted by the Council;

(f) to exercise general supervision and control over recognized homoeopathic institutions in order to ensure that the required standards are maintained;

(g) to appoint examiners, from among practitioners whose names appear in the general register and publish the results of the examinations conducted by the Council; and to appoint external examiners for such examinations;

(h) to suspend or withdraw recognition from any such recognized homoeopathic institution as is not conducted in accordance with such conditions as are required under this Act, or as are prescribed ;

Provided that no such suspension or withdrawal shall be imposed without affording the committee of management of any such institution an opportunity of making such representations as it may deem fit;

(i) to establish, and aid research in, recognized homoeopathic institutions, and to arrange for post-graduate study in homoeopathy, and to encourage the scientific manufacture of homoeopathic medicines;

(j) to publish homoeopathic journals;

(k) to make such grants of money out of the Homoeopathic Fund as may be necessary for the purpose of carrying out the objects of the Council;

(l) to do such acts, not inconsistent with the provisions of this Act, as are necessary for the furtherance of the objects of the Council.

(2) The Council may make rules for or in respect of any matters for which rules are required or authorized to be made by this Act. No such rule shall have effect until it is approved by the Minister and published in the Gazette.

**24.** The Council shall carry out its objects, exercise its powers and discharge its duties in accordance with—

(a) the provisions of this Act; and

(b) any such regulations made, and any such general or special direction issued, by the Minister under this Act.

Regulation of the manner in which objects, &c., of the Council are to be carried out.

## **PART II**

### **REGISTRATION OF HOMOEOPATHIC PRACTITIONERS**

**25.** (1) The Council shall keep and maintain in the prescribed form a general register and a provisional register for the registration of homoeopathic practitioners.

Registers.



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

Application for registration as homoeopathic practitioners.

**26.** (1) Every application for registration as a homoeopathic practitioner shall be made in writing to the Council through the registrar in such form as may be prescribed.

(2) An application for registration as a homoeopathic practitioner shall not be refused by the Council except—

- (a) on the ground that the applicant is not entitled to such registration under section 27 ; or
- (b) on any ground specified in section 28.

Qualifications for registration as homoeopathic practitioners.

**27.** (1) No person shall be entitled to be registered as a homoeopathic practitioner, unless he—

- (a) possesses such academic qualification or qualifications obtained after following a course of study for not less than four years in a homoeopathic institution as would entitle him to be granted registration as a homoeopathic practitioner in India or Pakistan; or
- (b) is the holder of a diploma or degree granted by a recognized homoeopathic institution in Sri Lanka or abroad ; or
- (c) satisfies the Council that he has practised homoeopathy for a period of not less than ten years, and satisfies a board nominated for the purpose by the Minister that he possesses sufficient knowledge, experience and skill for the efficient practice of homoeopathy.

(2) The Council may grant registration as a homoeopathic practitioner to any person who satisfies the Council that he has practised homoeopathy for a period of not less than three years if he passes a written examination conducted for the purpose by the Council.

(3) The Council may grant provisional registration as a homoeopathic practitioner to any person—

- (a) who satisfies the Council that he has practised homoeopathy for a period of not less than ten years, but fails to satisfy the board nominated by the Minister under paragraph (c) of subsection (1) in respect of his knowledge, experience and skill; or
- (b) who satisfies the Council that he has practised homoeopathy for a period of not less than five years ; or
- (c) who has passed any such examination held in Sri Lanka as is recognized by the Council for eligibility to sit for the written examination conducted by the Council, if he satisfies the Council that—

- (i) he has practised homoeopathy for a period of not less than two years; and
- (ii) he possesses sufficient knowledge of homoeopathy for the grant of provisional registration.

(4) Where any person is granted provisional registration as a homoeopathic practitioner under subsection (3), his name shall be entered in the provisional register maintained under section 25.

(5) Where any person who has been granted provisional registration as a homoeopathic practitioner under subsection (3), passes, within a period of five years from the date of such registration, a written examination conducted by the Council for the purpose, he shall be granted registration as a homoeopathic practitioner and his name shall be transferred from the provisional register to the general register.

(6) Where any person who has been granted provisional registration as a homoeopathic practitioner under subsection (3), fails to pass the examination referred to in subsection (5) within the period referred to therein, the provisional registration granted to him shall be cancelled and his name removed from the provisional register.

(7) Notwithstanding anything in the other provisions of this Act, the persons specified in the Schedule to this Act shall, for all purposes of this Act, be deemed to be registered as homoeopathic practitioners under this Act.

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

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

- (a) that he has been convicted by a competent court of any offence which, in the opinion of the Council, renders him unfit to be such practitioner;
- (b) that he has been guilty of any misconduct in his capacity as such practitioner; or
- (c) that he has been engaged in activities detrimental to the interests of homoeopathy.

(2) The Council may, by order, cancel or suspend for a specified period, the registration of any person as a homoeopathic practitioner on the ground that such person has not paid his annual fee for the continuance of such registration—

(3) Where any proceedings have been instituted before a court against a person who is a Registered Homoeopathic Practitioner 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 such practitioner until a final judgment, order or other determination is made or entered in respect of those proceedings.

(4) No order of refusal, cancellation or suspension shall be made by the Council under subsection (1) or subsection (2), 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 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 this section in respect of any person shall take effect—

- (a) where no appeal is preferred under section 33, until the expiry of the period within which an appeal may be preferred; and
- (b) where an appeal is preferred under that section, unless and until the order is confirmed in appeal.

(6) The Council shall have power to frame rules for the professional conduct of all homoeopathic practitioners. In the event of any violation of such rules being proved to the satisfaction of the Council, the Council shall have power to act under this section.

**29.** A copy of an order made by the Council allowing or refusing an application of any person for registration as a homoeopathic practitioner, or cancelling or suspending the registration of any person as such practitioner, shall be sent by registered post to such person by the registrar.

Service of copies of orders made by the Council.

**30.** (1) An order made by the Council allowing the application of any person for registration as a homoeopathic practitioner 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 general register of homoeopathic practitioners. It shall be the duty of the registrar to enter the name of, and such particulars as may be prescribed relating to, such person in such register.

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

(2) Where an order made by the Council cancelling the registration of any person as a homoeopathic practitioner takes effect, it shall be the duty of the registrar to remove the name and particulars of that person

from the general register, and the certificate of registration issued to such person shall be deemed to be cancelled.

(3) Where an order made by the Council suspending the registration of any person as a homoeopathic practitioner 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 Homoeopathic Practitioner, and the certificate of registration issued to such person shall be deemed to be suspended during that period.

Registration fee and annual fee.

**31.** (1) The fee for registration as a homoeopathic practitioner shall be such sum as may be prescribed.

(2) The registrar shall not register the name of any person in the general register until the fee for registration as a homoeopathic practitioner is paid by that person.

(3) A person who is a Registered Homoeopathic Practitioner shall pay, in respect of each year, the prescribed annual fee for the continuance of such registration. Such fee shall be payable in respect of each year on or before December 31, of the preceding year. For the purposes of this subsection the term "year" means a period of twelve months commencing on January 1.

(4) Where a Registered Homoeopathic Practitioner obtains any recognized qualification relating to his profession which is not specified in the registration entry relating to him in the general register, such person shall be entitled, on payment of such fee as may be prescribed, to have such new qualification inserted in that entry.

In this subsection, "recognized qualification" means any qualification recognized for the purposes of this Act by the Council.

Certificate of registration.

**32.** Where a person is registered as a homoeopathic practitioner the registrar shall send by registered post to such person a certificate of registration in such form as may be prescribed.

Appeals.

**33.** (1) Where an order is made by the Council refusing the application of any person for registration as a homoeopathic practitioner, 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 under subsection (1), the Minister shall, after hearing any representations or evidence that may be adduced by, or on behalf of, the appellant or the Council, give such decision not inconsistent with any provisions of this Act 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 the application for the registration of any such person as a homoeopathic practitioner shall be allowed, it shall be the duty of the registrar, subject to the provisions of subsection (2) of section 31, to enter the name of, and any such particulars as may be prescribed relating to, that person in the general register.

**34.** For the purposes of any written law, a Registered Homoeopathic Practitioner shall be deemed to be a legally or duly qualified practitioner of homoeopathy,

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

**35.** (1) Every homoeopathic practitioner registered in the general register shall be entitled to practise homoeopathy.

Privileges of Registered Homoeopathic Practitioners.

(2) Every homoeopathic practitioner registered in the general register 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 in such capacity; or

(c) expenses incurred by him in connexion with, or for the purposes of, the homoeopathic treatment of any patient.

(3) Every homoeopathic practitioner registered in the provisional register shall be entitled to practise homoeopathy and to sue for and recover any reasonable sum claimed by him as fees for any services rendered in his professional capacity, but he shall not exercise or enjoy, during the period in which he is registered in the provisional register, any other rights or privileges conferred by this Act on a homoeopathic practitioner registered in the general register.

Disabilities of unregistered homoeopathic practitioners.

**36.** Subject to the provisions of subsection (3) of section 35, no person who is not a Registered Homoeopathic 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 35.

Pretence to be a Registered Homoeopathic Practitioner, or practising for gain as a homoeopathic practitioner when not registered, to be an offence.

**37.** (1) A person who, not being a Registered Homoeopathic Practitioner,—

(a) uses the title of "Registered Homoeopathic Practitioner" 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 such person is a Registered Homoeopathic Practitioner,

shall be guilty of an offence.

(2) Any homoeopathic practitioner who, not being a person whose name is included in the general register, 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.

(3) Any person who, not being a person whose name is included in the general or provisional register of homoeopathic practitioners, practises homoeopathy for gain shall be guilty of an offence.

**38.** Notwithstanding anything contained in any written law—

Qualified medical practitioners.

(a) a certificate or other document required by any written law from any medical practitioner may be validly issued by a Registered Homoeopathic Practitioner, and accordingly such certificate shall not be deemed to be invalid by reason only of the fact that it was issued by a Registered Homoeopathic Practitioner;

(b) a Registered Homoeopathic Practitioner shall be eligible to hold any appointment as a medical officer in any dispensary, hospital or infirmary supported by or receiving a grant from the Government and to treat patients according to homoeopathy;

(c) a Registered Homoeopathic Practitioner may validly —

(i) sign or authenticate the birth or death certificate required by any written law to be signed or authenticated by a duly qualified medical practitioner; or

(ii) sign or authenticate a medical or physical fitness certificate of such description as may be prescribed,

and accordingly no such certificate shall be deemed to be invalid by reason only of the fact that it was so signed or authenticated by such homoeopathic practitioner; and

(d) a Registered Homoeopathic Practitioner may give evidence at any inquest or at any court of law on any matter relating to homoeopathy.

### PART III

#### FINANCE AND ACCOUNTS

**39.** (1) The Council shall establish and maintain a fund called the " Homoeopathic Fund ". There shall be placed to the credit of such Fund—

Homoeopathic Fund.

- (a) any fees received from homoeopathic practitioners and examinees;
- (b) any donations and other sums received by the Council; and
- (c) any grants received from the Government.

(2) There shall be paid out of the Homoeopathic Fund all expenses (including grants of money) incurred by the Council in carrying out its objects, and all other expenses incurred by the Council under the authority of this Act.

Accounts of the Council.

**40.** (1) The Council shall cause its accounts for each year to be kept in such form and such manner as may be approved by the Minister.

(2) The Council shall cause its accounts to be audited each year in such manner as may be decided by the Council.

(3) The financial year of the Council shall be the year commencing on the first day of January.

Annual report.

**41.** (1) As soon as may be after the end of each financial year, the Council shall prepare a report giving a true and fair account of its activities, and of its income and expenditure, during that year.

(2) The registrar 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.

**PART IV**

**GENERAL**

Exemption of Registered Homoeopathic Practitioners from certain duties.

**42.** Every Registered Homoeopathic Practitioner shall be exempt, if he so desires, from serving as an inquirer at any inquest of death, or as a juror, under the provisions of the Code of Criminal Procedure Act. The preceding provisions of this section shall have effect notwithstanding anything to the contrary in that Act.

**43.** (1) It shall be an offence for any body other than the Council to confer a degree, diploma, or a licentiate qualification pertaining to homoeopathy.

Conferring, granting or issuing of diplomas, &c., by authorized persons.

(2) No Registered Homoeopathic Practitioner shall use any degree, diploma, licence or certificate relating to homoeopathy, unless such degree, diploma, licence or certificate is recognized by the Council:

Provided that any person specified in the Schedule to this Act may continue to use any degree or diploma which he has used prior to the commencement of this Act.

(3) Whoever contravenes the provisions of subsection (1) or subsection (2) shall be guilty of an offence under this Act.

**44.** Every person who contravenes or fails to comply with the provisions of any regulation made under this Act shall be guilty of an offence under this Act.

Contravention of regulations an offence.

**45.** Where an offence under this Act is committed in or in relation to any recognized homoeopathic institution, then, without prejudice to any proceedings that may be taken in respect of such offence against the person by whom it was committed, the person for the time being in charge thereof shall 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.

Offences in relation to recognized homoeopathic institutions.

**46.** 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 one thousand rupees.

Punishment for offences under this Act.

**47.** (1) The Minister may make regulations for the purpose of carrying out and 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) any matter for which regulations are authorized or required by this Act to be made, or stated or required by this Act to be prescribed;
- (b) the summoning of meetings of Registered Homoeopathic Practitioners for the purpose of electing members of the Council, and the procedure to be observed at such meetings;
- (c) the fixing of dates for the nomination of candidates for election as members of the Council, and the procedure relating to the nomination of such candidates;
- (d) the procedure to be observed in respect of voting (including postal voting) for the election of members of the Council;
- (e) the counting of votes and the declaration of the results of such election;
- (f) all matters necessary for, or connected with, or incidental to, the exercise of the powers, the carrying out of the objects or the discharge of the duties and functions of the Council;
- (g) the registration of persons as homoeopathic practitioners, and the cancellation or suspension of such registration;
- (h) the regulation and control of the professional conduct of such practitioners;
- (i) the regulation and control of the manufacture of, and the importation, sale and dispensing of, homeopathic medicines, drugs and other preparations by persons recognized or certified by the Council; and
- (j) the regulation and control of homoeopathic pharmaceutical laboratories and homoeopathic manufacturing concerns.
- (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.
- 48.** The provisions of the Medical Ordinance shall not apply to, or in relation to, persons practising medicine, pharmacy, or nursing according to homoeopathy. Medical Ordinance not to apply to Registered Homoeopathic Practitioners.
- 49.** No prosecution for an offence under this Act shall be instituted except by a member or officer of the Council authorized in writing for the purpose by the Council. Sanction for prosecutions
- 50.** In this Act, unless the context otherwise requires,— interpretation.
- "appointed date" means the 1st day of March, 1979;
- "appointed member" means a member of the Council appointed under this Act;
- "approved examination" means an examination approved by the Council;
- "certificate of registration" means a certificate of registration issued by the Council under this Act;
- "chairman" means the president, or any other person who presides at a meeting of the Council;
- "elected member" means a member of the Council elected, or deemed to have been elected, under this Act;
- "general register" means the general register of homoeopathic practitioners kept and maintained under this Act;
- "Homoeopathic Fund" means the Homoeopathic Fund established and maintained by the Council under this Act;
- "homoeopathy" means the system of medicine established by Dr. Hahnemann, and the term "homoeopathic" shall be construed accordingly;

" president" means the president of the Council,

being registered under this Act in the general register;

" provisional register " means the provisional register of homoeopathic practitioners kept and maintained under this Act;

"registrar" means the registrar of the Council; and

" regulation " means any regulation made under this Act.

" recognized homoeopathic institution" means a homoeopathic institution recognized by the Council under this Act ;

SCHEDULE

[Section 27 (7).]

" Registered Homoeopathic Practitioner " means a person who is for the time

Dr. C. V. S. Corea  
Dr.W.A.F.T. Jayatilleka  
Dr.A.E. B. Kiriella  
Dr. A. S. Perera

CHAPTER 364

HOLIDAYS

Act No. 29 of 1971.

AN ACT TO DECLARE EVERY FULL MOON POYA DAY AND SUNDAY AS PUBLIC HOLIDAYS ; TO MAKE SPECIAL PROVISION FOR THE OBSERVANCE OF THE FULL MOON POYA DAY; AND TO MAKE PROVISION IN REGARD TO MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[2nd September, 1971.]

Short title.

1. This Act may be cited as the Holidays Act. (2) Every bank holiday shall be kept as a close holiday in every bank.

PART I

PUBLIC AND BANK HOLIDAYS

Declaration regarding Full Moon Poya Days and Sundays.

2. It is hereby declared that every Full Moon Poya Day and every Sunday— (a) shall be a public holiday; and (b) shall be a bank holiday.

6. (1) No person shall be compellable to make any payment or to do any act upon a bank holiday which he would not be compelled to make or to do on a Full Moon Poya Day or a Sunday; and accordingly, the obligation to make such payment or to do such act shall apply to the date next following such bank holiday which is not itself a Full Moon Poya Day or a Sunday or a bank holiday; and the making of such payment or the doing of such act on such following day shall be deemed, for all purposes, to be the equivalent to the making of such payment or the doing of such act on such bank holiday.

Persons not to be compelled to do certain acts on bank holidays,

Additional public and bank holidays.

3. Subject to the provisions of section 4— (a) the several days specified in the First Schedule hereto shall, in addition to the Full Moon Poya Days and Sundays, be public holidays; and (b) the several days specified in the Second Schedule hereto shall, in addition to the Full Moon Poya Days and Sundays, be bank holidays.

(2) Nothing in the preceding provisions of this section shall affect the law for the time being in force relating to bills of exchange or promissory notes, nor shall anything in such provisions apply to any payment or act to be made or done in a court or public office on a bank holiday which is not a public holiday.

Minister may amend Schedules to this Act.

4. The Minister may by Order published in the Gazette from time to time amend or vary the First Schedule or the Second Schedule to this Act or may from time to time replace any such Schedule by a new Schedule.

7. For the purpose of avoiding the causing of inconvenience to the public or of the disruption of services essential to the life of the community, the Minister, with the concurrence of the Minister charged with the administration of the functions of any public office or any Government department, may, from time to time, by Order published in the Gazette declare that, for the purposes of or in relation to that office or department or any holder of that office or any member of that department, the Full Moon Poya Day or the Sunday

Minister to make provision for special circumstances.

Public holidays to be dies non and to be kept as holidays.

5. (1) Every public holiday— (a) shall be a dies non; and (b) shall be kept as a holiday.



shall not be a public holiday, and that, in addition, only such of the days for the time being specified in the First Schedule to this Act as are also specified in that Order shall, notwithstanding anything to the contrary in this Act, be public holidays.

Declaration of Full Moon Poya Days.

**8.** The Minister may from time to time by Order published in the Gazette, declare that, as respects any such year as shall be specified in that Order, each such day in each such month in that year as may be so specified shall be a Full Moon Poya Day for the purposes of this Act,

Power to make regulations.

**9.** (1) (a) Where, for the purpose of enabling the benefits and advantages of the new scheme of holidays embodied in the principles and provisions of this Act to be enjoyed by or extended to employees of any particular class or description, certain adjustments or changes in the terms or conditions of their employment are necessary but such adjustments or changes cannot be made or effected without amending or modifying the provisions of any written law (other than this Act) by or under which such terms or conditions are governed, then, the Minister may make regulations under this Act amending or modifying any such written law to such extent or in such manner as may be necessary for that purpose and, in particular, but without prejudice to the generality of the powers conferred by the preceding provisions of this paragraph, so amending or modifying the Wages Boards Ordinance, the Shop and Office Employees (Regulation of Employment and Remuneration) Act, and the Factories Ordinance. In deciding upon the adjustments or changes to be so made or effected due regard shall be had both to the existing rights and obligations of employers and employees and to the desirability of ensuring that such adjustments or changes have as far as practicable no adverse impact on the general pattern of economic activity in Sri Lanka and on Sri Lanka's trade with other countries.

(b) In paragraph (a) of this subsection, the expression "terms or conditions of employment" includes such matters as hours of work, remuneration, payment of overtime, holidays and hours or days of rest.

(c) No regulation shall be made by the Minister under this Act in respect of any matter referred to in the preceding provisions of this subsection except with the prior concurrence of the Minister to whom the subject or function of Labour is assigned by the President.

(2) (a) The Minister may make regulations under this Act for such purpose or purposes as may be necessary to give full force and effect to the principles and provisions of this Act.

(b) In particular, but without prejudice to the generality of the powers conferred by the preceding provisions of this subsection, the Minister may make regulations for or in respect of all or any of the following matters:—

(i) all matters connected with the application and enforcement of this Act in respect of which the provisions of this Act require to be modified or supplemented to meet special contingencies or circumstances;

(ii) the determination or adjustment of any question or matter relating to public holidays and bank holidays or matters connected therewith or incidental thereto for the determination or adjustment of which no provision or effective provision is made by this Act;

(iii) the removal or adjustment of any conflict or inconsistency between the provisions of this Act and any other written law (other than any written law referred to in subsection (1));

(iv) all other matters connected with or incidental to the matters aforesaid.

(c) Regulations made under the preceding provisions of this subsection may provide for all such amendments, modifications or variations in this Act or any other written law (not being any written law referred to in subsection (1)) as may be necessary to achieve the object of such regulations.

(3) Any regulation made under this Act may be of general application, or may be limited in its application to any specified purpose or purposes.

(4) No regulation made by the Minister under this Act shall have effect until it has been approved by Parliament, nor until notification of such approval has been published in the Gazette.

(5) Every regulation made by the Minister under this Act shall, upon the publication in the Gazette of a notification of the approval of that regulation as provided in subsection (4), be deemed to be as valid and effectual as though it were herein enacted.

Power of Minister to declare special public holidays.

**10.** (1) The Minister may, without amending or varying the First Schedule to this Act, from time to time, by Order published in the Gazette, declare that—

- (a) any such day in any such month in any such year as may be specified in that Order, not being a day for the time being specified in that Schedule, shall be a public holiday for the purposes of this Act in addition to the days for the time being specified in that Schedule; or
- (b) any such day in any such month in any such year as may be specified in that Order shall be a public holiday for the purposes of this Act, in lieu of any day for the time being specified in that Schedule.

(2) Any Order made by the Minister under subsection (1) declaring any day to be a public holiday for the purposes of this Act shall come into force upon the date of its publication in the Gazette, or upon such later date as may be specified therein, and shall cease to be in force on the day immediately succeeding that day.

Power of Minister to declare special bank holidays.

**11.** (1) The Minister may, without amending or varying the Second Schedule to this Act, from time to time, by Order published in the Gazette, declare that—

- (a) any such day in any such month in any such year as may be specified in

that Order, not being a day for the time being specified in that Schedule, shall be a bank holiday for the purposes of this Act, in addition to the days for the time being specified in that Schedule ; or

- (b) any such day in any such month in any such year as may be specified in that Order shall be a bank holiday for the purposes of this Act, in lieu of any day for the time being specified in that Schedule.

(2) Any Order made by the Minister under subsection (1) declaring any day to be a bank holiday for the purposes of this Act shall come into force upon the date of its publication in the Gazette, or upon such later date as may be specified therein, and shall cease to be in force on the day immediately succeeding that day.

**PART II**

**OBSERVANCE OF FULL MOON POYA DAYS**

**\*13.** (1) No person shall on any Full Moon Poya Day keep open for business—

Closure of certain establishments on Full Moon Poya Days.

- (a) any night club, dance hall or any place of public performance; or
- (b) any arrack tavern, toddy tavern, foreign liquor shop, liquor bar, or any other premises where any liquor is kept for sale; or
- (c) any place where betting on horse-racing or gambling of any description whatsoever is carried on; or
- (d) any meat stall.

(2) The provisions of subsection (1) shall have effect notwithstanding any other law or any terms or conditions of any licence or permit issued under any written law.

**14.** No person shall, on any Full Moon Poya Day, slaughter any animal for the purpose of sale, or sell or offer for sale, the flesh of any animal.

Prohibition of slaughter of animals.

\* Section 12 repealing the Holidays Act, No. 17 of 1965, is omitted.

Permission of certain public performances.

**15.** Notwithstanding the provisions of section 13 it shall be lawful for a person to present any public performance if he obtains the prior written approval of the Minister in charge of the subject of Cultural Affairs.

(2) Where any person has been convicted of an offence under the provisions of subsection (1) and such person is the holder of a licence or permit relating to the subject-matter of that offence and issued under any written law, such licence or permit shall, notwithstanding anything in any other law or any terms or conditions subject to which such licence or permit was issued, be deemed *ipso facto* to be cancelled, void, and of no effect in law.

**PART III  
GENERAL**

Regulations.

**16.** (1) The Minister may make such regulations as he may deem necessary for the purpose of giving effect to the principles and provisions of Part II of this Act.

(2) No regulation made by the Minister under this section 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 by the Minister under this section shall upon the publication in the Gazette of a notification of the approval of that regulation as provided in subsection (2) be deemed to be as valid and effectual as though it were herein enacted.

Offences.

**17.** (1) Any person who contravenes the provisions of this Act shall be guilty of an offence and shall be liable upon conviction after summary trial before a Magistrate to a fine not exceeding one thousand rupees or to a term of rigorous imprisonment not exceeding two years or to both such fine and imprisonment.

**18.** In this Act, unless the context otherwise requires—

" animal" has the same meaning as in the Butchers' Ordinance and further includes any fowl or turkey;

" bank holiday" means any day which is a bank holiday by virtue of the operation of the provisions of this Act;

" Full Moon Poya Day " means any day which is declared to be a Full Moon Poya Day by Order for the time being in force made by the Minister under this Act;

" public holiday " means any day which is a public holiday by virtue of the operation of the provisions of this Act;

" public performance" has the same meaning as in the Public Performances Ordinance.

**FIRST SCHEDULE**

[Section 3.]

**PUBLIC HOLIDAYS**

- The Tamil Thai-Pongal Day
- Milad-un-Nabi(HolyProphet's Birthday)
- National Day
- Maha Sivarathri Day
- The Day prior to the Sinhala and Tamil New Year's Day
- The Sinhala and Tamil New Year's Day
- Good Friday
- May Day
- The Day following the Wesak Full Moon Poya Day
- National Heroes Day
- Id-UI-Fitr (Ramazan Festival)
- Id-UI-Azha (Haj Festival Day)
- Deepawali Festival Day
- Christmas Day

SECOND SCHEDULE

BANK HOLIDAYS

The Tamil Thai-Pongal Day  
Milad-un-Nabi (Holy Prophet's Birthday)  
National Day  
Maha Sivarathri Day  
The Day prior to the Sinhala and Tamil New Year's Day  
The Sinhala and Tamil New Year's Day  
Good Friday  
May Day  
The Day following the Wesak Full Moon Poya Day  
National Heroes Day  
June 30th—Special Bank Holiday  
Id-Ul-Fitr (Ramazan Festival)  
Id-Ul-Azha (Haj Festival Day)  
Deepawali Festival Day  
Christmas Day  
December 31st—Special Bank Holiday.

CHAPTER 455

HINDU BOARD OF EDUCATION

Ordinance  
No. 23 of 1926.

AN ORDINANCE TO INCORPORATE THE HINDU BOARD OF EDUCATION.

[24th January. 1927.]

Short title.

1. This Ordinance may be cited as the Hindu Board of Education Ordinance.

Incorporation  
of the Hindu  
Board of  
Education.

2. From and after the passing of this Ordinance the persons whose names appear in Schedule I\* and their respective successors elected in the manner provided by the rules and regulations in Schedule II\*, or such other rules and regulations as may be in force at the date of the election, shall be and become a corporation with perpetual succession under the name and style in Tamil of Shaiva Vithya Vriththi Sangam and in English of the Hindu Board of Education (hereinafter referred to as the board), and by such 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 pleasure.

The general  
objects of the  
board.

3. The general objects for which the board is constituted are hereby declared to be—

- (a) to establish and maintain Hindu schools in Sri Lanka where they are needed;
- (b) to take over and manage such of the existing schools as may be handed over to the board for management;
- (c) to render all such assistance to existing Hindu schools as may be considered necessary;
- (d) to do everything that may be required to promote and popularize the education of Hindu children in Hindu schools; and
- (e) to encourage the study of Tamil literature, music, and drama.

4. The rules set forth in Schedule II\* shall for all purposes be the rules of the board:

Rules in  
Schedule II\*  
be the rules of  
the board.

Provided, however, that nothing in this section contained shall be held or construed to prevent the board at all times hereafter from making fresh rules, or from altering, amending, adding to, or cancelling any of the rules in Schedule II\*, or to be hereafter made by the board.

5. On the coming into operation of this Ordinance all and every property belonging to the Hindu Board of Education, whether held in the name of the said board or in the name or names of any person or persons in trust for the said board, shall be and the same are hereby vested in the board hereby constituted, and the same shall be held by the board for the purpose of this Ordinance, subject to the rules for the time being of the board.

Property  
vested in  
board.

6. The board 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 board for the purpose of this Ordinance and subject to the rules for the time being of the board, with full power to sell, mortgage, lease, exchange, or otherwise dispose of the same for the purposes of the board.

Powers of  
board-

7. All debts and liabilities of the Hindu Board of Education existing at the time of the coming into operation of this Ordinance shall be paid by the board hereby

Debts due by  
and payable to  
Hindu Board  
of Education.

\* Schedules omitted.— Private enactment.

***HINDU BOARD OF EDUCATION***

**[Cap. 455**

constituted, and all debts due to, and subscriptions or contributions payable to, the Hindu Board of Education shall be paid to the board hereby constituted for the purposes of this Ordinance,

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 the rights of the Republic and others.

**CHAPTER 357**

**HOUSING DEVELOPERS (SPECIAL PROVISIONS)**

*Law*  
No. 49 of 1973.

A LAW TO GRANT CERTAIN INCOME TAX CONCESSIONS TO PERSONS CONSTRUCTING HOUSES FOR SALE AND TO PROVIDE FOR MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH.

[11th December, 1973.]

Short title.

**1.** This Law may be cited as the Housing Developers (Special Provisions) Law.

of 1963, or of sections 33 (1) (b) and 38 (1) of the Inland Revenue Act (No. 28 of 1979), shall not apply to such dividend or part thereof.

Exemption from income tax of profits and income arising from sale of certain houses.

**2.** Subject as hereinafter provided, where any person for the first time sells any house the construction of which was commenced by such person after the date of commencement of this Law and before the thirty-first day of December, 1976,—

(2) Every person who issues a warrant, cheque or other order drawn or made in payment of any dividend referred to in subsection (1) shall annex thereto a statement in writing specifying the amount of the profits and income exempt from income tax under section 2 which is included in that dividend.

(a) the profits and income arising from such sale shall be exempt from income tax if the floor area of such house does not exceed five hundred square feet and the price at which it was sold does not exceed ten thousand rupees; and

**4.** Where any sale referred to in section 2 relates to a house which together with the land appurtenant thereto occupies an extent which exceeds ten perches in municipal or urban areas and twenty perches in areas other than municipal or urban areas, the profits and income which in the opinion of the Commissioner-General of Inland Revenue arises from the sale of such part of the appurtenant land as exceeds ten perches or twenty perches, as the case may be, shall be disregarded for the purposes of the exemption from income tax granted under section 2:

Sale of houses with excess appurtenant lands,

(b) fifty per centum of the profits and income arising from such sale shall be exempt from income tax—

(i) if the floor area of such house does not exceed five hundred square feet and the price at which it was sold exceeds ten thousand rupees, or

(ii) if the floor area of such house exceeds five hundred square feet but does not exceed one thousand square feet.

Provided, however, that where any sale referred to in section 2 relates to a flat and the land appurtenant thereto in accordance with the provisions of section 9 (1) of the Apartment Ownership Law exceeds five perches in municipal or urban areas and ten perches in areas other than municipal or urban areas, the profits and income which in the opinion of the Commissioner-General of Inland Revenue arises from the sale of such part of the appurtenant land, as exceeds five perches or ten perches, as the

Dividends declared by companies out of profits and income from sale of certain houses to be exempt from income tax.

**3.** (1) Where any dividend paid by a company to its shareholders or any part of such dividend is out of the profits and income which under section 2 are exempt from income tax, then, such dividend or part thereof shall be exempt from income tax, and the provisions of sections 25 (1) (b) and 27 (1) of the Inland Revenue Act, No. 4

case may be, shall be disregarded for the purposes of the exemption from income tax granted under section 2.

Rent purchase sales.

**5.** Where any sale referred to in section 2 is a sale on rent purchase terms—

(a) such sale shall be deemed to have been made on the date on which the agreement to make the sale on such terms was entered into ; and

(b) such part of the amount payable by the purchaser as is attributable to the interest payable by him shall be disregarded for the purposes of the exemption from income tax granted under section 2.

Prohibition of amalgamation of houses to which section 2 applies.

**6.** (1) No person who becomes the owner of any house in respect of which the exemption from income tax conferred by section 2 has been, or is due to be, granted, shall—

(a) amalgamate or cause or permit the amalgamation of such house or part thereof with another such house or part thereof; or

(b) establish any structural connexion or cause or permit the establishment of any such connexion between such house or part thereof and another such house or part thereof,

(2) Every person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to a fine not exceeding five thousand rupees or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Regulations.

**7.** (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. 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.

**8.** (1) Every person who contravenes or fails to comply with any provision of this Law or any regulation 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 6 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.

**9.** In this Law, unless the context otherwise requires— interpretation.

"Commissioner-General of Inland Revenue", "company" and "profits and income" shall have the same meanings respectively as in the Inland Revenue Act (No, 28 of 1979);

"flat" means a self-contained domestic suite of rooms in a building of more than one storey;

"floor area", in relation to a house, means the floor area of the house exclusive of the thickness of the walls thereof;

"house" means an independent living unit (together with the land appurtenant thereto) 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;

"municipal area" means an area within the administrative limits of a Municipal Council;

"sale", in relation to a house, means sale of a house the construction of which has been completed ;

"urban area" means an area within the administrative limits of an Urban Council.



**CHAPTER 47**  
**HOTEL KEEPERS**

Ordinance No. 33 of 1908. AN ORDINANCE TO MAKE BETTER PROVISION FOR THE PROTECTION OF HOTEL KEEPERS AND OTHERS AGAINST FRAUDS.

[10th December. 1908.]

Short title.           **1.** This Ordinance may be cited as the Hotel Keepers Protection Ordinance.

Penalty for persons who fail to discharge debts to hotel keepers, &c., on demand.

**2.** (1) Any person who incurs any debt or liability to the keeper or manager of an hotel, inn, resthouse, restaurant, or eating-house for food, drink, or lodging shall, unless he gives notice at the time of incurring the same that he will require credit, be deemed to represent that he is and will be able to discharge such debt or liability on demand.

(2) Where any person, having incurred any such debt or liability without giving notice as aforesaid, fails to discharge the same on demand, he shall, unless he satisfies the court that he had no intention to defraud, be guilty of an offence under this Ordinance, and shall be liable on conviction thereof to a fine not exceeding one hundred rupees, or to simple or rigorous imprisonment for a term not exceeding three months.

(3) Every offence under this Ordinance shall be triable by the Magistrate's Court having local jurisdiction, and shall be " non-cognizable " and " bailable " within the meaning of the Code of Criminal Procedure Act.

(4) An appeal shall lie to the Court of Appeal from every conviction under this section, the provisions of section 317 of the Code of Criminal Procedure Act, notwithstanding.

**3.** No person shall be punishable under this Ordinance unless, at the time when he incurred the debt or liability in respect of which the charge is made, a copy of this Ordinance was exhibited in some conspicuous place in the hotel, inn, resthouse, restaurant or eating-house.

Copy of Ordinance to be exhibited in hotel, &c.

## CHAPTER 86

### HOTEL-KEEPERS LIABILITY

*Ordinances* AN ORDINANCE TO LIMIT THE LIABILITY OF HOTEL-KEEPERS IN CERTAIN RESPECTS.  
Nos-19 of 1916.  
61 of 1939  
3 of 1946.

[29th July, 1916.]

Short title.

1. This Ordinance may be cited as the Hotel-Keepers Liability Ordinance.

to deposit such goods as aforesaid, such hotel-keeper shall not be entitled to the benefit of this Ordinance in respect of such goods.

Hotel-keeper not to be liable for loss, &c., beyond seven hundred and fifty rupees, except in certain cases.

2. No hotel-keeper shall, after the passing of this Ordinance, be liable to make good to any guest of such hotel-keeper any loss or injury to goods brought to his hotel to a greater amount than the sum of seven hundred and fifty rupees, except in the following cases, that is to say:—

- (a) where such goods shall have been stolen, lost, or injured through the act, default, or neglect of such hotel-keeper, or any servant in his employ;
- (b) where such goods shall have been deposited expressly for safe custody with such hotel-keeper or his manager:

Provided that in the case of such deposit, it shall be lawful for such hotel-keeper or his manager aforesaid, if he thinks fit, to require as a condition of his liability that such goods shall, where the nature of them reasonably so permits, be deposited in a box or other receptacle fastened and sealed by the person depositing the same;

Provided also that the above liability shall, in the case of such hotels as provide no sleeping accommodation and such resthouses as are in charge of a paid servant of an Urban Council or a Town Council, not extend to more than two hundred and fifty rupees.

Obligation to receive property of guests for safe custody.

3. If any hotel-keeper or his manager shall refuse to receive for safe custody, as before mentioned, any goods of his guest, or if any such guest shall, through any default of such hotel-keeper or manager, be unable

4. Every hotel-keeper shall cause at least one copy of this Ordinance, printed in plain type in the Sinhala, Tamil and English languages, to be exhibited in a conspicuous part of the hall or entrance to his hotel, and he shall be entitled to the benefit of this Ordinance in respect of such goods only as shall be brought to his hotel while such copy shall be so exhibited. Notice of law, &c., to be exhibited.

5. For the purpose of this Ordinance the word "hotel" shall mean any hotel, inn, tavern, public house, resthouse, restaurant, eating house, or other place of refreshment the keeper of which is now by law responsible for the goods of his guest; the words "hotel-keeper" shall mean the keeper of such a place who is responsible as aforesaid; the word "manager" shall mean the agent or servant of the hotel-keeper for the time being in charge of the hotel or any person duly appointed by the hotel-keeper to receive the goods of his guests for safe custody as aforesaid; and the word "goods" shall mean goods and property of every description, including a horse or other live animal and any gear appertaining thereto, and any carriage, cart, bicycle, rickshaw, motor car, motor bicycle, or other vehicle. Interpretation.

6. Nothing in this Ordinance contained shall be deemed to extend the liabilities to which an hotel-keeper is now by law subject or to affect the same otherwise than as hereinbefore provided. Saving clause.

## CHAPTER 45

### HOUSES OF DETENTION

Ordinances Nos. 5 of 1907, 21 of 1930, Act No. 26 of 1955. AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF HOUSES OF DETENTION FOR VAGRANTS.

[20th May, 1907.]

Short title. **1.** This Ordinance may be cited as the Houses of Detention Ordinance.

Interpretation. **2.** In this Ordinance the word "vagrant" means—

(a) any person found asking for alms ;

(b) any person not being physically able to earn, or being unwilling to work for, his own livelihood and having no visible means of subsistence :

Provided that priests or pilgrims gathering alms or failing to work for their livelihood shall not be deemed vagrants, if the gathering of alms is prescribed by their religion or order, or is in performance of any religious vow or obligation, or if they are prohibited by their religion or order or by any such vow or obligation as aforesaid from working for their own livelihood.

Power of Minister to establish houses of detention. **3.** (1) It shall be lawful for the Minister to provide houses of detention at such places as he shall think proper within Sri Lanka for the reception of vagrants.

(2) There shall be appointed from time to time such superintendents and medical and other officers as may be necessary for the management of such houses of detention. The appointments, transfers and discipline of such officers and their removal from office when necessary shall be governed by the appropriate procedure prescribed under Article 55 (4) of the Constitution.

(3) Every such superintendent and officer shall be deemed to be a public servant within the meaning of the Penal Code.

Detention of vagrants on order of a Magistrate's Court. **4.** (1) When any person has been convicted of any offence by a Magistrate's Court under its summary jurisdiction, or when any person appears or is brought

before such court under the provisions of section 10, if after due inquiry the Magistrate is of opinion that the person so convicted or appearing or brought before the court is a vagrant within the meaning of this Ordinance, he may, in addition to or in substitution for any punishment which he has power to inflict, order such person to be detained in a house of detention. Any such order shall declare that the person against whom it is made is a vagrant, and shall also, if practicable, state any prior date from which, in the opinion of the Magistrate, such person has been in Sri Lanka a vagrant as defined by this Ordinance. Such order shall be a sufficient authority to the police for keeping in custody such person on the way to the house of detention and to the superintendent for receiving and detaining him there.

(2) Every person detained in a house of detention under this section shall be detained until he avails himself of suitable employment found for him, or until he is removed or discharged as hereinafter mentioned.

(3) Every person so detained shall be put to any labour of which the medical officer shall certify him to be capable.

**5.** Any person detained in a house of detention may, if the medical officer considers it necessary, be sent to a hospital or other suitable place for treatment ; but shall be deemed while in such hospital or other place to be still an inmate of the house of detention.

Persons detained may be sent to hospital.

**6.** (1) It shall be lawful for the Minister from time to time to make regulations for the management of houses of detention. Such regulations may provide among other things for—

Regulations for management of houses of detention.

- (a) the search of the person and clothing of any person admitted to the house ;
- (b) the custody or destruction of the clothing and effects of the inmates ;
- (c) their diet, dress, and accommodation ;
- (d) personal cleanliness, hours, meals, labour, and general conduct;
- (e) recording particulars for the future identification of inmates ;
- (f) their discharge.

(2) The Minister may prescribe punishments for disobedience to such regulations to be inflicted by the superintendent not exceeding one week's confinement, or one week's reduced diet (the nature of such confinement and of such reduced diet to be prescribed by the regulations), or both such punishments.

Superintendent to endeavour to find employment for vagrants.

7. The superintendent of any house of detention shall use his best endeavours to obtain suitable employment outside the house for the vagrants admitted thereto.

Agreements to leave Sri Lanka.

8. (1) Any vagrant detained in a house of detention may enter into an agreement in writing with the Secretary to the Ministry, binding himself to embark on such ship and at such time as the superintendent of the house of detention may direct, for the purpose of being removed from Sri Lanka at the expense (if any) of the Government of Sri Lanka, and not to return to Sri Lanka within five years without the permission of the Minister.

(2) Every such agreement shall be exempt from stamp duty, and shall be in the form in the Schedule or to a like effect.

Enforcement of agreement.

(3) When a vagrant has entered into such agreement, unless in the opinion of the superintendent of the house of detention suitable employment is likely to be speedily found for such vagrant, the superintendent may enforce such agreement and cause such vagrant to be removed from Sri Lanka, and if he deems it desirable may call in the assistance of the police to place such Vagrant on board ship, and such vagrant may be detained on board, and shall be deemed in lawful custody while the ship is within the jurisdiction of Sri Lanka.

9. (1) If within a reasonable time not exceeding three months from the date when he was committed to such house a vagrant who is not a citizen of Sri Lanka has refused or neglected either to avail himself of suitable employment found for him or to enter into such agreement as hereinbefore mentioned, the President may order him to be repatriated, and he shall be repatriated accordingly ; and any person returning to Sri Lanka after having been repatriated under this Ordinance shall be guilty of an offence, and shall be liable on conviction thereof to imprisonment of either description for a term not exceeding six months.

(2) The Minister may at any time order any person detained in a house of detention to be discharged.

Discharge of vagrants.

10. Any person who, being apparently a vagrant, refuses or fails to accompany a police officer, or to appear before a Magistrate's Court when required to do so, for the purposes of this Ordinance, may be arrested without warrant, and shall on conviction before a Magistrate's Court be liable to imprisonment of either description for any term not exceeding three months.

Arrest without warrant of vagrant refusing to appear before Magistrate's Court.

11. (1) An officer appointed for the purposes of this Ordinance may arrest without a warrant any person who escapes from a house of detention in which he is detained. The provisions of sections 24, 25 and 27 of the Code of Criminal Procedure Act shall apply to an arrest made under the preceding provisions of this subsection, although the person making the arrest is not acting under a warrant and is not a peace officer having authority to arrest.

Power to arrest persons escaping from houses of detention.

(2) Where a person is arrested under the provisions of subsection (1) of this section, the officer arresting that person shall take him back to the house of detention from which he escaped and, in case such officer is a person other than the superintendent of that house, such officer shall hand him over to the superintendent.

12. Any vagrant who escapes from the police while committed to their charge under this Ordinance, or who leaves a house of detention without permission of the superintendent, or who, having with such permission left a house of detention for a

Penalty on vagrant for escape,

limited time or a specified purpose, fails to return at the expiration of such time or when such purpose has been accomplished or proves to be impracticable, shall on conviction before a Magistrate's Court be liable to imprisonment of either description

for any term not exceeding three months.

13. Nothing contained in this Ordinance shall be construed to prevent the prosecution of any person for any offence punishable under the Vagrants Ordinance.

Saving of Prosecutions under the Vagrants Ordinance.

[Section 8 (2).]

SCHEDULE

FORM OF AGREEMENT TO LEAVE SRI LANKA

Exempt from stamp duty.

Articles of agreement made this . . . . . day of . . . . . 19. . . . . between the Secretary to the Ministry charged with the subject of . . . . . of the one part and A. B. of . . . . . (the vagrant) of the other part. Each of the parties hereto (so far as relates to the acts on his own part to be performed) hereby agrees with the other of them as follows :-

1. The said A. B. shall embark on board such ship and at such time as the superintendent of the house of detention shall direct.

\* Here insert name of port to which A.B. agrees to go.

2. The said A. B. shall remain on board such ship until such ship shall have arrived at the port of . . . . . \*

3. The said A. B. shall not return to Sri Lanka until five years shall have elapsed from the date of such embarkation, unless he shall be specially permitted to return by the Minister in charge of the subject of . . . . .

4. The said Secretary to the Ministry charged with the subject of . . . . . shall contract with the owner of such ship or his agent for the passage of the said A. B. on board such ship and for his subsistence during the voyage for which he shall embark as aforesaid.

In witness whereof the said Secretary to the Ministry charged with the subject of, . . . . . and the said A. B. have hereunto set their hands the day and year first above written.

Secretary to the Ministry charged with the subject of

A.B.

**CHAPTER 338**

**HOUSING (SPECIAL PROVISIONS)**

Law  
No. 18 of 1974.

A LAW TO PROHIBIT THE UNAUTHORIZED TRANSFER OF OCCUPANCY OF PREMISES PROVIDED BY THE COMMISSIONER OF NATIONAL HOUSING OR A LOCAL AUTHORITY OR THE COMMISSIONER OF LOCAL GOVERNMENT OR A PUBLIC CORPORATION FOR OCCUPATION BY ANY PERSON, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[19th June. 1974.]

Short title.

1. This Law may be cited as the Housing (Special Provisions) Law.

writing, if it be a Municipal Council or the Chairman or any officer authorized by him in writing, if it be an Urban Council or Town Council or Village Council, as the case may be;

Application of Law.

2. The provisions of this Law shall apply to all premises provided by the Commissioner of National Housing (hereinafter referred to as the "Commissioner") or a local authority or the Commissioner of Local Government or a public corporation for occupation by any person, whether such occupation is upon the payment of rent or not but shall not apply to Government quarters within the meaning of the Government Quarters (Recovery of Possession) Act.

(c) in relation to any premises provided by the Commissioner of Local Government, means the Commissioner of Local Government or an officer authorized by him in writing; and

(d) in relation to any premises provided by a public corporation, means the head of such corporation or an officer authorized by him in writing.

Restrictions as to transfer of occupancy.

3. (1) Notwithstanding anything in any other law, the occupancy of any premises referred to in section 2, shall not be transferred by the person for whose occupation such premises was provided by the appropriate authority, to any other person without the prior written permission of the appropriate authority and except in accordance with such conditions as the appropriate authority may impose.

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

(2) In this section, the expression "appropriate authority"—

(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.

(a) in relation to any premises provided by the Commissioner means the Commissioner or any officer authorized by him in writing;

(3) Where regulations are made in respect of

(a) any premises provided by a local authority, or

(b) in relation to any premises provided by a local authority means the Municipal Commissioner or any officer authorized by him in

(b) any premises provided by the Commissioner of Local Government,

such regulations shall be made with the concurrence of the Minister in charge of the subject of Local Government.

(4) 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 from the date of its disapproval but without prejudice to anything previously done thereunder. Notification of the date on which any regulation made by the Minister is deemed to be rescinded shall be published in the Gazette.

offences and penalties,

5. Any person who contravenes the provisions of this Law or any regulation made thereunder shall be guilty of an offence and shall, on conviction after trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a period not exceeding six weeks or to both such fine and imprisonment.

6. In this Law, unless the context otherwise requires—

Interpretation.

" building " includes a flat;

" flat" means a self-contained domestic suite of rooms in a building of more than one storey;

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

" premises " means any building or part of a building together with the land appertaining thereto; 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 550

HEALTH SERVICES

Acts  
Nos. 12 of 1952,  
10 of 1956,  
13 of 1962,  
Law  
No. 3 of 1977.

AN ACT TO PROVIDE FOR THE CONSTITUTION AND RESPONSIBILITIES OF THE DEPARTMENT OF HEALTH AND FOR THE ESTABLISHMENT OF REGIONAL HOSPITALS BOARDS AND HOSPITAL COMMITTEES, AND TO SECURE MORE EFFICIENT ADMINISTRATION BY THE LOCAL AUTHORITIES IN RELATION TO PUBLIC HEALTH.

[9th April, 1952.]

Short title.

1. This Act may be cited as the Health Services Act.

(e) such medical officers, matrons, nurses, apothecaries and other officers and servants as may be necessary for carrying out the objects and purposes referred to in section 5.

PART I

THE DEPARTMENT OF HEALTH :  
ITS CONSTITUTION AND  
RESPONSIBILITIES

The  
Department of  
Health.

2. (1) There shall be a Department of Health (hereinafter referred to as "the department") which shall be administered in accordance with the succeeding provisions of this Act.

(2) Each Deputy Director shall, subject to the general supervision and control of the Director, be responsible for the administration of the division of the department to which he is appointed and for the exercise and performance of the powers, functions and duties conferred on him by any other written law.

(2) The department shall consist of three divisions, that is to say, the division of medical services, the division of public health services and the division of laboratory services.

4. (1) There shall be a consultative council to be known as the "Health Council" which shall consist of the Director, the three Deputy Directors, and not more than seven medical practitioners nominated by the Minister, three of whom must be respectively officers of the medical, surgical and obstetrical sections of the department.

Health  
Council.

Appointment  
of officers, &c.

3. (1) There may be appointed—

- (a) a person to be or to act as Director of Health Services (hereinafter referred to as "the Director");
- (b) a person to be or to act as Deputy Director of Health (Medical Services);
- (c) a person to be or to act as Deputy Director of Health (Public Health Services);
- (d) a person to be or to act as Deputy Director of Health (Laboratory Services); and

In this subsection, " medical practitioner " has the same meaning as in the Medical Ordinance.

[§ 2, 13 of  
1962.]

[§ 2, 13 of  
1962.]

(IA) Every member of the Health Council who is nominated by the Minister under subsection (1) of this section shall, unless he earlier vacates office by resignation, hold office for a period of two years commencing from the date of his nomination. Any member who vacates office by effluxion of time shall be eligible for renomination.

[§ 2, 13 of  
1962.]



(2) It shall be the function of the Health Council—

(a) from time to time to make recommendations with a view to securing the improvement of the services provided by the department, and

(b) to tender advice to the Minister on matters referred to the Council for such advice.

(3) The Director shall preside at the meetings of the Health Council; and in the absence of the Director the members present shall elect one of their number to preside at the meeting. The Director shall not be entitled to vote at any such meeting.

(4) The Health Council shall be summoned by the Director to meet at least once in every month; and a report of the proceedings at each meeting shall be transmitted to the Secretary to the Ministry through the Director.

(5) Any member of the Health Council who dissents from any decision of the council shall be entitled to record in writing the reasons for his dissent; and it shall be the duty of the Director to transmit such record to the Secretary to the Ministry together with any such report in relation to the decision as the Director may desire to make.

Health services, institutions and general facilities.

5. Subject to such general or special directions as may be issued by the Minister, and to the availability of moneys granted from the Consolidated Fund in conformity with the provisions of Article 150 of the Constitution, the department shall be responsible for carrying out the following objects and purposes, that is to say:—

(a) the provision of establishments and services (including courses of training) necessary for the prevention and treatment of disease and generally for the preservation and promotion of the health of the people;

(b) the encouragement of study and research in subjects relating to health, 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 such subjects; and

(c) the taking, development or encouragement of measures for the investigation or prevention of disease and for the improvement of the public health, including research and epidemiological investigations and the dissemination of information.

6. (1) The Minister may by Order published in the Gazette divide Sri Lanka into health districts in such manner as he may consider best conducive to the efficient administration of the department. Health districts.

(2) There may be appointed for each health district such supervisory and other officers of any appropriate division of the department as may be necessary for the purposes of efficient administration.

7. (1) It shall be the duty of the Registrar-General not later than the month of February in each year to furnish to the Director a statistical analysis of the causes of deaths occurring in the preceding year where such causes have been certified in accordance with the requirements of any other written law in that behalf by persons registered as medical practitioners under the Medical Ordinance. Death statistics and annual report.

(2) It shall be the duty of the Director to furnish before such date in each year as the Secretary to the Ministry may determine, a report upon the state of the public health of Sri Lanka during the preceding year, and such report shall include a statement of conclusions and recommendations of the Director with respect to the information disclosed by the statistics furnished under subsection (1).

8. (1) In any case where the Minister is satisfied— General supervisory or directory power in relation to local authorities.

(a) that there has been a failure on the part of any local authority to exercise any power or to perform any duty or take any measure which that local authority is authorized or required to exercise, perform or

take by any provision contained in that behalf in any other written law, and

- (b) that such failure is or is likely to be prejudicial to the public health generally or to the health of persons resident in areas outside the administrative limits of that local authority,

the Director may, if authorized so to do by the Minister, by written notice given by registered post require the local authority to exercise, perform or take any such power, duty or measure (authorized or required by the provision of written law aforesaid) as may be specified in the notice, and to make such appointments or employ such officers or servants as may be necessary for effectively carrying out the objects or purposes of that provision.

(2) Where any local authority fails to comply with the requirements of any notice under subsection (1) before the expiration of a period of thirty days from the date of the notice or of such longer period as may be specified by the Director in that behalf in the same or a subsequent notice, it shall be lawful for the Director to cause any person or persons acting under his authority to exercise, perform or take any power, duty or measure to which the notice relates; and for the purposes of the exercise of the rights conferred by this subsection the Director and any such person or persons shall be deemed to have the same powers as are conferred on the local authority by any provision of written law referred to in the notice.

All expenses incurred by the Director or by any person or persons acting under his authority in the exercise of the rights conferred by the preceding provisions of this section shall be recoverable from the local authority as a debt due to the State.

(3) The provisions of subsection (2) shall be in addition to and not in substitution or derogation of any powers conferred on the Director by any other written law.

(4) The Minister may, from time to time, by notice published in the Gazette require

every local authority to furnish to the Director annual or other periodical reports with respect to any matter or subject concerning the state of the public health in the area within the administrative limits of that authority.

(5) The Director may by written notice sent by registered post require any local authority to furnish to him within a time specified in the notice a report with respect to any outbreak of disease or other specified matter relating to or affecting the health of persons resident in the area within the administrative limits of that authority.

(6) It shall be the duty of any local authority to comply with any such notice under subsection (4) or subsection (5) as may be applicable to that local authority.

(7) In this section, "local authority" means any Municipal Council, Urban Council, Town Council or Village Council, and includes the River Valleys Development Board.

**PART II**

**HOSPITALS BOARDS AND COMMITTEES**

9. (1) The Minister may by Order published in the Gazette constitute for any area specified in the Order a regional hospitals board consisting of—

Constitution of regional hospitals board.

- (a) a member of the teaching staff of the Faculty of Medicine of any one of the Universities of Sri Lanka appointed by the Minister on the recommendation of the Vice-Chancellor;
- (b) either the Deputy Director of Health (Medical Services) or any other officer of the division of medical services of the department appointed by the Minister; and
- (c) not less than five other persons appointed by the Minister.

(2) An officer of the department shall not be qualified for appointment to a board under paragraph (c) of subsection (1).

(3) In the case of each board constituted under this section, the Minister shall nominate one of the members to be the chairman of the board ; and the board shall elect one of their number to be the deputy chairman who shall preside at meetings of the board in the absence of the chairman.

(4) The term of office of a member of a board shall be specified by the Minister at the time of the appointment; and different terms may be so specified for different members.

(5) A member of any such board who vacates his office by effluxion of time shall be eligible for reappointment.

(6) In the event of the death, resignation or vacation of office of any member of a board, the Minister may by notice published in the Gazette appoint another person to hold office during the remainder of the term of office of such member.

(7) The Minister shall in every Order made under subsection (1) specify the date on which the board constituted thereby shall commence to hold office.

**10.** (1) It shall be the function of a regional hospitals board, from time to time, to make to the Director such recommendations as will in the opinion of the board secure co-ordination in the provision of services at Government hospitals in the area for which the board is constituted or secure improvement in the nature or extent of the services so provided, including recommendations for the provision of buildings or equipment, for fulfilling the needs of any such hospital in respect of personnel, and for the admission or denial of admission to any such hospital of patients suffering from any specified disease.

(2) A board shall meet at least once in every two months and at such other times as the chairman may determine.

(3) The Medical Superintendent or other officer in charge of each Government hospital in the area for which a board is constituted shall be entitled to be present but not to vote at any meeting of that

board ; and any such Superintendent or other officer shall be present at any such meeting if he is summoned by the chairman to attend.

(4) A member of the department nominated by the Director for the purpose shall be the secretary of a board.

(5) It shall be the duty of the secretary of a board to transmit to the Secretary to the Ministry and to the Director copies of the minutes of every meeting of the board.

11. (1) The Minister may by Order published in the Gazette constitute for any Government hospital or hospitals specified in the Order a hospital committee consisting of—

- (a) either the Deputy Director of Health (Medical Services) or any other officer of the division of medical services of the department appointed by the Minister; and
- (b) not less than four other persons appointed by the Minister.

(2) An officer of the department shall not be qualified for appointment to a hospital committee under paragraph (b) of subsection (1).

(3) In the case of each committee constituted under this section, the Minister shall nominate one of the members to be the chairman of the committee; and the committee shall elect one of their number to be the deputy chairman who shall preside at meetings of the committee in the absence of the chairman.

(4) The term of office of a member of a hospital committee shall be specified by the Minister at the time of the appointment; and different terms may be so specified for different members.

(5) A member of any such committee who vacates his office by effluxion of time shall be eligible for reappointment.

(6) In the event of the death, resignation or vacation of office of any member of a hospital committee, the Minister may by

Regional hospitals board: functions and procedure.

notice published in the Gazette appoint another person to hold office during the remainder of the term of office of such member.

(7) The Minister shall in every Order made under subsection (1) specify the date on which the hospital committee constituted thereby shall commence to hold office.

Powers, duties,  
&c., of hospital  
committee.

**12.** (1) A hospital committee shall be charged with the following powers, duties and responsibilities in relation to each hospital for which it is constituted :—

- (a) the power to make determinations as to the utilization of such part of the sums appropriated by law or by resolution of Parliament for the purposes of the department as are allocated by the Director for the purpose of meeting expenses incurred during each financial year in the maintenance or administration of the hospital, other than expenses upon salaries, wages and the provision of diet for patients;
- (b) the power to make determinations as to the description and quantity of drugs or equipment to be purchased, from time to time, out of the sums referred to in paragraph (a);
- (c) the power to issue directions with respect to—
  - (i) the admission or discharge of patients;
  - (ii) the admission of visitors to the wards or other places in the hospital;
  - (iii) the maintenance of order, decency and cleanliness among the inmates of and visitors to the hospital;
  - (iv) the maintenance of order and the regulation of traffic in the hospital premises;
- (d) the responsibility of supervising the provision of diet for patients in the

hospital for the purpose of securing that the diets are of the standard and value prescribed in that behalf by the Director and that the sums expended for the provision of diet are economically utilized;

- (e) the function of making such recommendations to the Director in relation to the hospital as will in the opinion of the committee secure improvement in the nature or extent of the services provided in the hospital, including recommendations for the provision of new buildings or equipment, for fulfilling the needs of the hospital in respect of personnel, and for the admission or denial of admission to the hospital of patients suffering from any specified disease ;
- (f) the duty to prepare and transmit to the Director, before the first day of May in each year, an estimate of sums which in the opinion of the committee will be necessary for the purpose of meeting expenditure during the succeeding financial year in the maintenance and administration of the hospital, other than expenditure on salaries and wages; and
- (g) the duty to advise and assist the Director, if so required by him, in the examination of tenders for diets for patients in the hospital.

(2) The Medical Superintendent or other officer in charge of a hospital for which a hospital committee is constituted shall be consulted before any determination is made by the committee under paragraph (a) or paragraph (b) of subsection (1); and in any case where the Medical Superintendent or such other officer does not concur with any such determination, it shall be referred to the Director, and his decision on the question whether or not the determination should be carried out shall be final.

(3) Subject to the provisions of subsection (2), it shall be the duty of the Medical Superintendent or other officer in charge of a hospital to carry out all

determinations of the hospital committee under paragraph (a) or paragraph (b) of subsection (1), relating to that hospital except in so far as any such determination is contrary to or in conflict, with any financial regulation of the Government or instructions issued by or on behalf of the Secretary to the Ministry or the Secretary to the Treasury.

(4) It shall be the duty of the Medical Superintendent or other officer in charge of a hospital for which a hospital committee is constituted to carry out and to cause or require personnel employed in the hospital to carry out all such directions with respect to the hospital which may be issued under paragraph (c) of subsection (1) by the hospital committee.

(5) It shall be lawful for any member of a hospital committee constituted for any hospital at any time to visit and inspect the hospital or any ward thereof.

Meetings, &c., of hospital committee.

**13.** (1) Every hospital committee shall meet at least once in each month and at such other times as the chairman may determine.

(2) At any meeting of a hospital committee three members shall constitute a quorum; and any question arising for decision shall be decided by a majority of the members present and voting, the chairman having a deliberative vote but not a casting vote.

(3) The Medical Superintendent or other officer in charge of each hospital for which a hospital committee is constituted shall be entitled to be present but not to vote at any meeting of the committee; and any such Superintendent or other officer shall be present at any such meeting if he is summoned by the chairman to attend.

(4) Any member of the professional staff of any hospital for which a hospital committee is constituted may be consulted, whether at a meeting or otherwise, by the hospital committee with respect to any matter connected with the powers, functions and responsibilities of the committee.

(5) A member of the department nominated by the Director for the purpose shall be the secretary of a hospital committee.

(6) It shall be the duty of the secretary of a hospital committee to transmit to the Secretary to the Ministry and to the Director copies of the minutes of each meeting of the committee.

**14.** Every hospital committee shall in the month of March in each year prepare and furnish to the Secretary to the Ministry a report upon the exercise and performance during the preceding financial year of its powers, functions and responsibilities under this Act.

Annual report of hospital committee.

**15.** A hospital committee constituted under this Act shall not be deemed or construed—

Limitation of authority of hospital committee.

(a) to be authorized or permitted to incur or undertake any expenditure or liability or to enter into any contract or other obligation, whether by itself or as an agent of the Government or of the Director; or

(b) to be the employer of any person employed at any hospital in any capacity whatsoever.

**16.** Where a hospital committee is constituted for any hospital situated in any area for which a regional hospitals board is constituted under section 9, one of the members of the committee selected by the Minister shall be appointed under paragraph (c) of subsection (1) of that section as a member of the regional hospitals board to represent the committee.

Representation of hospital committee on regional hospitals board.

**17.** The Minister may, in lieu of constituting a hospital committee for any hospital, by Order published in the Gazette declare that the regional hospitals board constituted for the area in which the hospital is situated shall have and exercise in relation to the hospital all the powers, functions and responsibilities of a hospital committee; and while such Order is in force the provisions of sections 12 to 15 shall apply *mutatis mutandis* in all respects as

Exercise of functions of hospital committee by regional hospitals board.

though the regional hospitals board were a hospital committee duly constituted under section 11:

(2) No Order made under subsection (1) shall have effect unless it is approved by Parliament.

Provided, however, that any person who has been appointed as a member of a regional hospitals board in accordance with section 16 to represent a hospital committee for any hospital, shall not function as a member of the board when it is exercising the powers, functions or responsibilities of a hospital committee in relation to any other hospital.

20. The Minister may make rules prescribing the procedure to be followed in the transaction of business by regional hospitals boards and hospital committees. Subject to such rules, if any, any such board or committee may regulate its own procedure.

Procedure for transaction of business.

PART III

CONSTRUCTION OF OTHER LAW

18. (1) A member of a regional hospitals board or hospital committee shall vacate his office as such—

- (a) if, having been adjudged an insolvent or a bankrupt, he has not been granted by a competent court a certificate to the effect that his insolvency or bankruptcy has arisen wholly or partly by unavoidable losses or misfortunes ; or
- (b) if he is adjudged by a competent court to be of unsound mind ; or
- (c) if he absents himself, without leave of the board or committee, as the case may be, from three consecutive meetings of the board or committee; or
- (d) if he resigns office by writing under his hand addressed to the Minister; or
- (e) if he is removed from office by the Minister.

Vacation of office of members of regional hospitals board or hospital committee.

21. Notwithstanding the change of designation of the department heretofore called the Department of Medical and Sanitary Services, all persons holding office as members of that department on the 9th day of April, 1952, or otherwise employed in that department on that date shall continue in office or employment in the Department of Health constituted by this Act.

Continuation in employment of members of the Department of Medical and Sanitary Services.

(2) The Minister may without assigning any reason remove any member of a regional hospitals board or hospital committee from office. Such removal shall be final and conclusive and shall not be questioned in any court or tribunal.

22. (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 " Director of Medical and Sanitary Services " occurs, there shall be substituted therefor the expression " Director of Health Services "; and accordingly wherever in any such provision the abbreviation " Director " is used to denote the Director of Medical and Sanitary Services, such abbreviation shall be read and construed as a reference to the Director of Health Services.

Amendment of other written laws, &c.

(2) If the designation of any office in the Department of Medical and Sanitary Services (as constituted prior to the 9th day of April, 1952), 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

[§ 2, Law 3 of 1977.]

[§ 2, Law 3 of 1977.]

Allowances to members of hospital boards and committees.

19. (1) The Minister may by Order published in the Gazette provide for the payment in such cases and circumstances as may be specified in the Order of remuneration and travelling or other allowances to members of hospital boards or of hospital committees.

(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 of Health.

of Medical and Sanitary Services or any officer of that department in his capacity as such, shall be deemed on and after the 9th day of April, 1952, to be and to have been made, issued, or executed by or in favour of the Director of Health Services or of the officer holding the corresponding office in the Department of Health 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 Medical and Sanitary Services (as constituted prior to the 9th day of April, 1952), shall be read and construed as a reference to the officer holding the corresponding office in the Department of Health.

Savings for contracts, &c.

**23.** Every contract, agreement or other instrument or document whatsoever made, issued or executed prior to the 9th day of April, 1952, by or in favour of the Director

**CHAPTER 518**

**HENDALA SUSITHA WADANA SAMITHIYA**

*Act* AN ACT TO INCORPORATE THE SUSITHA WADANA SAMITHIYA OF HENDALA.  
 No. 19 of 1968.

[31st May, 1968.]

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|--|---|---|---------------------------|
| Short title.   | <b>1.</b> This Act may be cited as the Hendala Susitha Wadana Samithiya (Incorporation) Act.  | <b>5.</b> 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 three persons who are members of the Committee administering the affairs of the Corporation and who have been duly authorized for the purpose under the rules of the Corporation. Such persons shall sign their names in token of their presence and such signing shall be independent of the signing of any other person as a witness. | Seal of the Corporation.  |
| Incorporation of the Susitha Wadana Samithiya of Hendala.                | <b>2.</b> The persons who, at the time of the coming into operation of this Act, are the members of the Susitha Wadana Samithiya of Hendala (hereinafter referred to as "the Samithiya ") and such other persons as are hereafter enrolled as members of the Samithiya shall be a body corporate (hereinafter referred to as the "Corporation ") with perpetual succession and a common seal and the name of " Susitha Wadana Samithiya of Hendala ". The Corporation may sue and be sued by that name. | <b>6.</b> (1) The Corporation may, from time to time, at any general meeting of the members and by the votes of at least two-thirds of the members present and qualified to vote at such meeting, make rules as it may deem expedient 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:—                                 | Rules of the Corporation. |
| The Corporation may acquire, hold, and dispose of property.              | <b>3.</b> The Corporation—<br><br>(a) may acquire and hold any movable and immovable property by right of purchase, grant, gift, testamentary disposition or otherwise;<br><br>(b) shall hold any property subject to the rules for the time being of the Corporation; and<br><br>(c) may sell, mortgage, lease, exchange or otherwise dispose of any of its properties.  | (a) the objects of the Corporation;<br><br>(b) the admission, withdrawal and expulsion of members;<br><br>(c) the classification of members ;   |                           |
| Sums payable by or to the Samithiya to be paid by or to the Corporation. | <b>4.</b> All debts and liabilities of the Samithiya existing at the time of the 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 Samithiya shall be paid to the Corporation.   | (d) the rights, privileges and duties of members of each class ;<br><br>(e) fixing the subscription payable by members and the collection of such subscription;   |                           |



(f) the procedure to be followed in convening meetings of members of the Corporation and in the transaction of business at such meetings; and

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 made under this section.

(g) the duties of officers of the Corporation.

(4) The members of the Corporation shall be subject to the rules 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 (1).

**7.** 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 others.

(3) The rules of the Samithiya in force when this Act comes into operation shall be